

# **TEXAS PRIVATE SECURITY LAWS and selected statutes**



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## CHAPTER 1

### OCCUPATIONS CODE CHAPTER 1702, PRIVATE SECURITY

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## SUBCHAPTER A. GENERAL PROVISIONS

**OCC §1702.001. SHORT TITLE.** This chapter may be cited as the Private Security Act.

**OCC §1702.002. DEFINITIONS.** In this chapter:

(1) "Alarm system" means:

(A) electronic equipment and devices designed to detect or signal:

(i) an unauthorized entry or attempted entry of a person or object into a residence, business, or area monitored by the system; or

(ii) the occurrence of a robbery or other emergency;

(B) electronic equipment and devices using a computer or data processor designed to control the access of a person, vehicle, or object through a door, gate, or entrance into the controlled area of a residence or business; or

(C) a television camera or still camera system that:

(i) records or archives images of property or individuals in a public or private area of a residence or business; or

(ii) is monitored by security personnel or services.

(1-a) For purposes of Subdivision (1), the term "alarm system" does not include a telephone entry system, an operator for opening or closing a residential or commercial gate or door, or an accessory used only to activate a gate or door, if the system, operator, or accessory is not connected to a computer or data processor that records or archives the voice, visual image, or identifying information of the user.

(1-b) "Board" means the Texas Private Security Board.

(2) "Branch office" means an office that is:

(A) identified to the public as a place from which business is conducted, solicited, or advertised; and

(B) at a place other than the principal place of business as shown in board records.

(3) "Branch office license" means a permit issued by the board that entitles a person to operate at a branch office as a security services contractor or investigations company.

(4) \**[repealed by Acts effective September 1, 2009, 81st Leg., R.S., H.B. 2730, PC §4.102.]*

(5) "Commissioned security officer" means a security officer to whom a security officer commission has been issued by the board.

(5-a) "Department" means the Department of Public Safety of the State of Texas.

(6) "Detection device" means an electronic device used as a part of an alarm system, including a control, communications device, motion detector, door or window switch, sound detector, vibration detector, light beam, pressure mat, wiring, or similar device.

(6-a) "Electronic access control device" means an electronic, electrical, or computer-based device, including a telephone entry system, that allows access to a controlled area of a business, but that is not monitored by security personnel or services and does not send a signal to which law enforcement or emergency services respond. The term does not include:

(A) a mechanical device, such as a deadbolt or lock; or

(B) an operator for opening or closing a commercial gate or door or an accessory, such as a fixed or portable transmitter, card-reader, or keypad, if the operator or accessory is used only to activate the gate or door and is not connected to an alarm system.

(6-b) "Endorsement" means a permit entitling an individual holding a registration to perform a service regulated by this chapter for an appropriately licensed company.

(7) "Extra job coordinator" means a peace officer who:

(A) is employed full-time by the state or a political subdivision of the state; and

(B) schedules other peace officers to provide guard, patrolman, or watchman services in a private capacity who are:

(i) employed full-time by the state or a political subdivision of the state; and

(ii) not employed by the extra job coordinator.

(8) "Firearm" has the meaning assigned by Section 46.01, Penal Code.

(9) "Insurance agent" means:

(A) a person licensed under Subchapter B, C, D, or E, Chapter 4051, or Chapter 981, Insurance Code;

(B) a salaried, state, or special agent; or

(C) a person authorized to represent an insurance fund or pool created by a local government under Chapter 791, Government Code.

(10) "Investigations company" means a person who performs the activities described by Section 1702.104.

(11) "Letter of authority" means a permit issued by the board that entitles the security department of a private business or a political subdivision to employ a commissioned security officer.

(12) "License" means a permit issued by the board that entitles a person to operate as a security services contractor or investigations company.

(13) "License holder" means a person to whom the board issues a license.

(14) "Manager" means an officer or supervisor of a corporation or a general partner of a partnership who has the experience required by Section 1702.119 to manage a security services contractor or an investigations company.

(15) "Peace officer" means a person who is a peace officer under Article 2.12, Code of Criminal Procedure.

(16) "Person" includes an individual, firm, association, company, partnership, corporation, nonprofit organization, institution, or similar entity. Section 311.005(2), Government Code, does not apply to this subdivision.

(16-a) "Personal protection officer" means a person who performs the activities described by Section 1702.202.

(17) "Personal protection officer endorsement" means a permit issued by the board that entitles an individual to act as a personal protection officer.

(18) "Private investigator" means an individual who performs one or more services described by Section 1702.104.

(19) "Registrant" means an individual who has registered with the board under Section 1702.221.

(20) "Registration" means a permit issued by the board to an individual described by Section 1702.221.

(20-a) "Security officer" means a person who performs the activities described by Section 1702.222.

(21) "Security officer commission" means an authorization issued by the board that entitles a security officer to carry a firearm.

(22) "Security services contractor" means a person who performs the activities described by Section 1702.102.

**OCC §1702.003.** \**[repealed by Acts effective September 1, 2009, 81st Leg., R.S., H.B. 2730, §4.102.]*

**OCC §1702.004. GENERAL SCOPE OF REGULATION.** (a) The board, in addition to performing duties required by other law or exercising powers granted by other law:

(1) licenses investigations companies and security services contractors;

(2) issues commissions to certain security officers;

(3) issues endorsements to certain security officers engaged in the personal protection of individuals;

(4) registers and endorses:

(A) certain individuals connected with a license holder; and

(B) certain individuals employed in a field connected to private investigation or private security; and

(5) regulates license holders, security officers, registrants, and endorsement holders under this chapter.

(b) The board shall adopt rules necessary to comply with Chapter 53. In its rules under this section, the board shall list the specific offenses for each category of regulated persons for which a conviction would constitute grounds for the board to take action under Section 53.021.

**OCC §1702.005. DEPARTMENT OF PUBLIC SAFETY.**

(a) The board created under Section 1702.021 is a part of the department. The department shall administer this chapter through the board.

(b) A reference in this chapter or another law to the Texas Commission on Private Security means the board.

**OCC §1702.006. FOREIGN ENTITY REGISTRATION.**

Licensure under this chapter does not exempt a foreign entity from the registration requirements of Chapter 9, Business Organizations Code.

## **SUBCHAPTER B. TEXAS COMMISSION ON PRIVATE SECURITY**

**OCC §1702.021. BOARD MEMBERSHIP.** (a) The Texas Private Security Board consists of seven members appointed by the governor with the advice and consent of the senate as follows:

(1) four public members, each of whom is a citizen of the United States;

(2) one member who is licensed under this chapter as a private investigator;

(3) one member who is licensed under this chapter as an alarm systems company; and

(4) one member who is licensed under this chapter as the owner or operator of a guard company.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

**OCC §1702.023. ELIGIBILITY OF PUBLIC MEMBERS.**

The board's public members must be representatives of the general public. A person may not be a public member of the board if the person or the person's spouse:

(1) is registered, commissioned, certified, or licensed by a regulatory agency in the field of private investigations or private security;

(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the board other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

**OCC §1702.024. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.** (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

(b) A person may not be a board member, and may not be a department employee whose primary duties include private security regulation and who is employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of private investigation or private security; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of private investigation or private security.

(c) A person may not be a board member or act as general counsel to the board or agency if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the agency.

**OCC §1702.025. TERMS; VACANCIES.** (a) The board members serve staggered six-year terms, with the terms of two or three members expiring on January 31 of each odd-numbered year.

(b) If a vacancy occurs during the term of a board member, the governor shall appoint a new member to fill the unexpired term.

**OCC §1702.026. OFFICERS.** (a) The governor shall designate one board member as presiding officer to serve in that capacity at the will of the governor. The governor shall designate the presiding officer without regard to race, creed, color, disability, sex, religion, age, or national origin.

(b) The board shall elect from among its members an assistant presiding officer and a secretary to serve two-year terms beginning on September 1 of each odd-numbered year.

(c) The presiding officer of the board or, in the absence of the presiding officer, the assistant presiding officer shall preside at each board meeting and perform the other duties prescribed by this chapter.

**OCC §1702.027. GROUNDS FOR REMOVAL.** (a) It is a ground for removal from the board that a member:

(1) does not have the qualifications required by Section 1702.021 at the time of taking office;

(2) does not maintain the qualifications required by Section 1702.021 during service on the board;

(3) is ineligible for membership under Section 1702.023 or 1702.024;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the chief administrator has knowledge that a potential ground for removal exists, the chief administrator shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the chief administrator shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

**OCC §1702.028. PER DIEM; REIMBURSEMENT.** (a) A board member is entitled to a per diem as set by legislative appropriation for each day the member engages in the business of the board.

(b) A member is entitled to reimbursement for travel expenses incurred while conducting board business, including expenses for transportation, meals, and lodging, as prescribed by the General Appropriations Act.

**OCC §1702.029. MEETINGS.** The board shall meet at regular intervals to be decided by the board.

**OCC §1702.030. TRAINING.** (a) A person who is appointed to and qualifies for office as a board member may

not vote, deliberate, or be counted as a member in attendance at a board meeting until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter;

(2) the programs operated by the board;

(3) the role and functions of the board;

(4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the board;

(6) the results of the most recent formal audit of the board;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict of interest laws; and

(8) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

## SUBCHAPTER C. DIRECTOR AND PERSONNEL

### OCC §1702.041. DIRECTOR CHIEF ADMINISTRATOR.

(a) The chief administrator is responsible for the administration of this chapter under the direction of the board. The chief administrator shall perform duties as prescribed by the board and the department.

(b) The chief administrator is a full-time employee of the department. A board member may not serve as chief administrator.

**OCC §1702.042. PERSONNEL; CONFLICT OF INTEREST.** An employee of the department whose primary duties include private security regulation may not:

(1) have a financial or business interest, contingent or otherwise, in a security services contractor or investigations company; or

(2) be licensed under this chapter.

### OCC §1702.043. DIVISION OF RESPONSIBILITIES.

The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the chief administrator and staff of the department.

### OCC §1702.044. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION.

The chief administrator or the chief administrator's designee shall provide to board members and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.



**OCC §1702.045.** \**[repealed by Acts effective September 1, 2009, 81st Leg., R.S., H.B. 2730, PC §4.102.]*

**OCC §1702.046.** \**[repealed by Acts effective September 1, 2009, 81st Leg., R.S., H.B. 2730, PC §4.102.]*

**OCC §1702.047. ADMINISTRATIVE STAFF.** The department shall designate a department employee who shall report directly to the board. The employee designated under this section shall provide administrative assistance to the board in the performance of the board's duties.

#### **SUBCHAPTER D. POWERS AND DUTIES OF COMMISSION**

**OCC §1702.061. GENERAL POWERS AND DUTIES OF BOARD.** (a) The board shall perform the functions and duties provided by this chapter.

(b) The board shall adopt rules and general policies to guide the agency in the administration of this chapter.

(c) The rules and policies adopted by the board under Subsection (b) must be consistent with this chapter and other board rules adopted under this chapter and with any other applicable law, state rule, or federal regulation.

(d) The board has the powers and duties to:

(1) determine the qualifications of license holders, registrants, endorsement holders, and commissioned security officers;

(2) investigate alleged violations of this chapter and of board rules;

(3) adopt rules necessary to implement this chapter; and

(4) establish and enforce standards governing the safety and conduct of each person licensed, registered, or commissioned under this chapter.

(e) The board shall have a seal in the form prescribed by the board.

**OCC §1702.0611. RULEMAKING PROCEDURES.** (a) The board may only adopt rules under this chapter on the approval of the Public Safety Commission as provided by this section.

(b) Before adopting a rule under this chapter, the board must:

(1) determine the need for the proposed rule;

(2) work with persons who will be affected by the rule to ensure consideration of all relevant issues regarding the proposed rule;

(3) consult with an attorney in the department's regulatory licensing service to draft the rule and ensure that the proposed rule complies with statutory requirements regarding administrative rules; and

(4) submit the proposed rule to the department's general counsel, director, and chief accountant for consideration of the proposed rule's impact on the department and to ensure that the proposed rule is within the board's authority.

(c) On the completion of the required publication and comment periods under Chapter 2001, Government Code, the Public Safety Commission shall:

(1) return the proposed rule to the board if:

(A) the commission identifies a problem with the rule that must be resolved before the rule is approved; or

(B) a comment requiring resolution is received during the comment period; or

(2) place the rule on the commission's agenda for final approval during the commission's next regularly scheduled meeting.

(d) On approval of the proposed rule by the Public Safety Commission, the department shall comply with the requirements of Chapter 2001, Government Code, for final adoption of the rule.

**OCC §1702.0612. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION.** (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the board.

**OCC §1702.062. FEES.** (a) The board by rule shall establish reasonable and necessary fees that produce sufficient revenue to administer this chapter. The fees may not produce unnecessary fund balances.

(b) The board may charge a fee each time the board requires a person regulated under this chapter to resubmit a set of fingerprints for processing by the board during the application process for a license, registration, endorsement, or commission. The board shall set the fee in an amount that is reasonable and necessary to cover the administrative expenses related to processing the fingerprints.

(c) A person whose pocket card has not expired is not eligible to receive from the board another pocket card in the same classification in which the pocket card is held.

**OCC §1702.063. BOARD USE OF FINES.** The fines collected under this chapter may not be used to administer this chapter.

**OCC §1702.0635. RESTRICTIONS ON CERTAIN RULES.** The board may not adopt rules or establish unduly restrictive experience or education requirements that limit a person's ability to be licensed as an electronic access control device company or be registered as an electronic access control device installer.

**OCC §1702.064. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING.** (a) The board may not adopt rules restricting advertising or competitive bidding by a person regulated by the board except to prohibit false, misleading, or deceptive practices by the person.

(b) The board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

- (1) restricts the person's use of any medium for advertising;
- (2) restricts the person's personal appearance or use of the person's personal voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the person; or
- (4) restricts the person's advertisement under a trade name.

#### **OCC §1702.0645. PAYMENT OF FEES AND FINES.**

(a) The board may adopt rules regarding the method of payment of a fee or a fine assessed under this chapter.

(b) Rules adopted under this section may:

- (1) authorize the use of electronic funds transfer or a valid credit card issued by a financial institution chartered by a state or the federal government or by a nationally recognized credit organization approved by the board; and
- (2) require the payment of a discount or a reasonable service charge for a credit card payment in addition to the fee or the fine.

**OCC §1702.065.** \* [repealed by Acts effective September 1, 2009, 81st Leg., R.S., H.B. 2730, PC §4.102.]

**OCC §1702.066. SERVICE OF PROCESS; SERVICE OF DOCUMENTS ON BOARD.** Legal process and documents required by law to be served on or filed with the board must be served on or filed with the chief administrator at the designated office of the board.

**OCC §1702.067. BOARD RECORDS; EVIDENCE.** An official record of the board or an affidavit by the chief administrator as to the content of the record is prima facie evidence of a matter required to be kept by the board.

#### **OCC §1702.068. APPEAL BOND NOT REQUIRED.**

The board is not required to give an appeal bond in any cause arising under this chapter.

**OCC §1702.069 \*** [repealed by Acts effective September 1, 2009, 81st Leg., R.S., H.B. 2730, PC §4.102.]

### **SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES**

#### **OCC §1702.081. PUBLIC INTEREST INFORMATION.**

(a) The board shall prepare information of interest to consumers or recipients of services regulated under this chapter describing the board's regulatory functions and the procedures by which complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies.

**OCC §1702.082. COMPLAINTS.** (a) The board shall maintain a system to promptly and efficiently act on complaints filed with the board. The board shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The board shall make information available describing its procedures for complaint investigation and resolution.

(c) The board shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) \* [repealed by Acts effective September 1, 2009, 81st Leg., R.S., H.B. 2730, PC §4.27.]

(e) On written request, the department shall inform the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the information would jeopardize an ongoing investigation.

**OCC §1702.083. PUBLIC PARTICIPATION.** The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.

**OCC §1702.084. PUBLIC ACCESS TO CERTAIN RECORDS OF DISCIPLINARY ACTIONS.** (a) The board shall make available to the public through a toll-free telephone number, Internet website, or other easily accessible medium determined by the board the following information relating to a disciplinary action taken during the preceding three years regarding a person regulated by the board:

- (1) the identity of the person;
- (2) the nature of the complaint that was the basis of the disciplinary action taken against the person; and
- (3) the disciplinary action taken by the board.

(b) In providing the information, the board shall present the information in an impartial manner, use language that is commonly understood, and, if possible, avoid jargon specific to the security industry.

(c) The board shall update the information on a monthly basis.

(d) The board shall maintain the confidentiality of information regarding the identification of a complainant.

#### **OCC §1702.085. CONFIDENTIALITY OF RECORDS.**

Records maintained by the department under this chapter on the home address, home telephone number, driver's license number, or social security number of an applicant or a license holder, registrant, or security officer commission holder are confidential and are not subject to mandatory disclosure under Chapter 552, Government Code.

### **SUBCHAPTER F. LICENSING AND DUTIES OF INVESTIGATIONS COMPANIES AND SECURITY SERVICES CONTRACTORS**

**OCC §1702.101. INVESTIGATIONS COMPANY LICENSE REQUIRED.** Unless the person holds a license as an investigations company, a person may not:

- (1) act as an investigations company;
- (2) offer to perform the services of an investigations company; or
- (3) engage in business activity for which a license is required under this chapter.

#### **OCC §1702.102. SECURITY SERVICES CONTRACTOR LICENSE REQUIRED; SCOPE OF LICENSE.**

(a) Unless the person holds a license as a security services contractor, a person may not:

- (1) act as an alarm systems company, armored car company, courier company, guard company, guard dog company, locksmith company, or private security consultant company;

(2) offer to perform the services of a company in Subdivision (1); or

(3) engage in business activity for which a license is required under this chapter.

(b) A person licensed only as a security services contractor may not conduct an investigation other than an investigation incidental to the loss, misappropriation, or concealment of property that the person has been engaged to protect.

**OCC §1702.1025. ELECTRONIC ACCESS CONTROL DEVICE COMPANY LICENSE REQUIRED; SCOPE OF LICENSE.** (a) Unless the person holds a license as an electronic access control device company, a person may not:

(1) act as an electronic access control device company;

(2) offer to perform the services of an electronic access control device company; or

(3) engage in business activity for which a license is required under this chapter.

(b) A person licensed as an electronic access control device company may not install alarm systems unless otherwise licensed or registered to install alarm systems under this chapter.

**OCC §1702.103. CLASSIFICATION AND LIMITATION OF LICENSES.** (a) The license classifications are:

(1) Class A: investigations company license, covering operations of an investigations company;

(2) Class B: security services contractor license, covering operations of a security services contractor;

(3) Class C: covering the operations included within Class A and Class B;

(4) Class F: level III training school license;

(5) Class O: alarm level I training school license;

(6) Class P: private business letter of authority license;

(7) Class X: government letter of authority license; and

(8) Class T: telematics license.

(b) A license described by this chapter does not authorize the license holder to perform a service for which the license holder has not qualified. A person may not engage in an operation outside the scope of that person's license. The board shall indicate on the license the services the license holder is authorized to perform. The license holder may not perform a service unless it is indicated on the license.

(c) A license is not assignable unless the assignment is approved in advance by the board.

(d) The board shall prescribe by rule the procedure under which a license may be terminated.

(e) The board by rule may establish other license classifications for activities expressly regulated by this chapter and may establish qualifications and practice requirements consistent with this chapter for those license classifications.

**OCC §1702.104. INVESTIGATIONS COMPANY.** (a) A person acts as an investigations company for the purposes of this chapter if the person:

(1) engages in the business of obtaining or furnishing, or accepts employment to obtain or furnish, information related to:

(A) crime or wrongs done or threatened against a person, state, or the United States;

(B) the identity, habits, business, occupation, knowledge, efficiency, loyalty, movement, location, affiliations, associations, transactions, acts, reputation, or character of a person;

(C) the location, disposition, or recovery of lost or stolen property; or

(D) the cause or responsibility for a fire, libel, loss, accident, damage, or injury to a person or to property;

(2) engages in the business of securing, or accepts employment to secure, evidence for use before a court, board, officer, or investigating committee;

(3) engages in the business of securing, or accepts employment to secure, the electronic tracking of the location of an individual or motor vehicle other than for criminal justice purposes by or on behalf of a governmental entity; or

(4) engages in the business of protecting, or accepts employment to protect, an individual from bodily harm through the use of a personal protection officer.

(b) For purposes of Subsection (a)(1), obtaining or furnishing information includes information obtained or furnished through the review and analysis of, and the investigation into the content of, computer-based data not available to the public. The repair or maintenance of a computer does not constitute an investigation for purposes of this section and does not require licensing under this chapter if:

(1) the review or analysis of computer-based data is performed only to diagnose a computer or software problem;

(2) there is no intent to obtain or furnish information described by Subsection (a)(1); and

(3) the discovery of any information described by Subsection (a)(1) is inadvertent.

**OCC §1702.1045. PRIVATE SECURITY CONSULTING COMPANY.** A person acts as a private security consulting company for purposes of this chapter if the person:

(1) consults, advises, trains, or specifies or recommends products, services, methods, or procedures in the security or loss prevention industry;

(2) provides a service described by Subdivision (1) on an independent basis and without being affiliated with a particular service or product; and

(3) meets the experience requirements established by the board.

**OCC §1702.105. ALARM SYSTEMS COMPANY.** A person acts as an alarm systems company for the purposes of this chapter if the person sells, installs, services, monitors, or responds to an alarm system or detection device.

**OCC §1702.1055. ELECTRONIC ACCESS CONTROL DEVICE COMPANY.** A person acts as an electronic access control device company for the purposes of this chapter if the person installs or maintains an electronic access control device.

**OCC §1702.1056. LOCKSMITH COMPANY.** (a) A person acts as a locksmith company for the purposes of this chapter if the person:

(1) sells, installs, services, or maintains, or offers to sell, install, service, or maintain, mechanical security devices, including deadbolts and locks;



(2) advertises services offered by the company using the term "locksmith"; or

(3) includes the term "locksmith" in the company's name.

(b) This section does not apply to a hotel, as that term is defined by Section 156.001, Tax Code.

**OCC §1702.106. ARMORED CAR COMPANY.** A person acts as an armored car company for the purposes of this chapter if the person provides secured and protected transportation of valuables, including money, coins, bullion, securities, bonds, or jewelry.

**OCC §1702.107. COURIER COMPANY.** A person acts as a courier company for purposes of this chapter if the person transports or offers to transport under armed guard an item that requires expeditious delivery, including a document, map, stock, bond, or check.

**OCC §1702.108. GUARD COMPANY.** A person acts as a guard company for the purposes of this chapter if the person employs an individual described by Section 1702.323(d) or engages in the business of or undertakes to provide a private watchman, guard, or street patrol service on a contractual basis for another person to:

(1) prevent entry, larceny, vandalism, abuse, fire, or trespass on private property;

(2) prevent, observe, or detect unauthorized activity on private property;

(3) control, regulate, or direct the movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to ensure the protection of property;

(4) protect an individual from bodily harm including through the use of a personal protection officer; or

(5) perform a function similar to a function listed in this section.

**OCC §1702.109. GUARD DOG COMPANY.** A person acts as a guard dog company for the purposes of this chapter if the person places, rents, sells, or trains a dog used to:

(1) protect an individual or property; or

(2) conduct an investigation.

**OCC §1702.110. APPLICATION FOR LICENSE.** (a) An application for a license under this chapter must be in the form prescribed by the board and include:

(1) the full name and business address of the applicant;

(2) the name under which the applicant intends to do business;

(3) a statement as to the general nature of the business in which the applicant intends to engage;

(4) a statement as to the classification for which the applicant requests qualification;

(5) if the applicant is an entity other than an individual, the full name and residence address of each partner, officer who oversees the security-related aspects of the business, and director of the applicant, and of the applicant's manager;

(6) if the applicant is an individual, two classifiable sets of fingerprints of the applicant or, if the applicant is an entity other than an individual, of each officer who oversees the security-related aspects of the business and of

each partner or shareholder who owns at least a 25 percent interest in the applicant;

(7) a verified statement of the applicant's experience qualifications in the particular classification in which the applicant is applying;

(8) a report from the department stating the applicant's record of any convictions for a Class B misdemeanor or equivalent offense or a greater offense;

(9) the social security number of the individual making the application; and

(10) other information, evidence, statements, or documents required by the board.

(b) An applicant for a license as a security services contractor shall maintain a physical address within this state and provide that address to the board. The board shall adopt rules to enable an out-of-state license holder to comply with this subsection.

**OCC §1702.111. ISSUANCE OF BRANCH OFFICE LICENSE.** (a) A license holder, in accordance with Section 1702.129, shall notify the board in writing of the establishment of a branch office and file in writing with the board the address of the branch office.

(b) On application by a license holder, the board shall issue a branch office license.

**OCC §1702.112. FORM OF LICENSE.** The board shall prescribe the form of a license, including a branch office license. The license must include:

(1) the name of the license holder;

(2) the name under which the license holder is to operate;

(3) the license number and the date the license was issued; and

(4) a photograph of the license holder, affixed to the license at the time the license is issued by the board.

**OCC §1702.113. GENERAL QUALIFICATIONS FOR LICENSE, CERTIFICATE OF REGISTRATION, OR SECURITY OFFICER COMMISSION.** (a) An applicant for a license, certificate of registration, endorsement, or security officer commission or the applicant's manager must be at least 18 years of age and must not:

(1) at the time of application be charged with the commission of a Class A misdemeanor or felony offense, under an information or indictment;

(2) have been found by a court to be incompetent by reason of a mental defect or disease and not have been restored to competency;

(3) have been dishonorably discharged from the United States armed services, discharged from the United States armed services under other conditions determined by the board to be prohibitive, or dismissed from the United States armed services if a commissioned officer in the United States armed services; or

(4) be required to register in this or any other state as a sex offender, unless the applicant is approved by the board under Section 1702.3615.

(b) An applicant is ineligible for a license, certificate of registration, or commission if the applicant has charges pending for or has been convicted in any jurisdiction of a Class B misdemeanor for an offense determined by the board to be disqualifying if the fifth anniversary of the date of conviction has not occurred before the date of application, unless a full pardon has been granted for reasons relating to a wrongful conviction.

(c) For purposes of this section, an offense under the laws of this state, another state, or the United States is considered a Class B misdemeanor if the offense is not a felony or Class A misdemeanor and the offense:

(1) at the time of conviction was designated by a law of this state as a Class B misdemeanor;

(2) contains all the elements of an offense designated by a law of this state as a Class B misdemeanor; or

(3) provides as a possible punishment confinement in a jail other than a state jail felony facility.

(d) For purposes of this section, "convicted" has the meaning provided in Section 1702.371.

(e) \* [repealed by Acts effective September 1, 2009, 81st Leg., R.S., H.B. 2730, PC §4.102.]

#### **OCC §1702.114. ADDITIONAL QUALIFICATIONS FOR INVESTIGATIONS COMPANY LICENSE.**

(a) An applicant for a license to engage in the business of an investigations company or the applicant's manager must have, before the date of the application, three consecutive years' experience in the investigative field as an employee, manager, or owner of an investigations company or satisfy other requirements set by the board.

(b) The applicant's experience must be:

(1) reviewed by the board or the chief administrator; and

(2) determined to be adequate to qualify the applicant to engage in the business of an investigations company.

#### **OCC §1702.115. ADDITIONAL QUALIFICATIONS FOR SECURITY SERVICES CONTRACTOR LICENSE.**

(a) An applicant for a license to engage in the business of a security services contractor or the applicant's manager must have, before the date of the application, two consecutive years' experience in each security services field for which the person applies as an employee, manager, or owner of a security services contractor or satisfy other requirements set by the board.

(b) The applicant's experience must have been obtained legally and must be:

(1) reviewed by the board or the chief administrator; and

(2) determined to be adequate to qualify the applicant to engage in the business of a security services contractor.

#### **OCC §1702.116. QUALIFICATIONS FOR GUARD DOG COMPANY LICENSE; INSPECTIONS.**

(a) An applicant for a license to engage in the business of a guard dog company must:

(1) meet the requirements of Sections 1702.113 and 1702.115; and

(2) present evidence satisfactory to the board that the applicant will comply with the rules adopted under this section.

(b) After consulting the Department of State Health Services, the board shall adopt rules to ensure that the areas in which a guard dog company houses, exercises, or trains its animals are securely enclosed by a six-foot chain-link fence or made equally secure.

(c) The board shall conduct regular inspections to ensure compliance with the rules adopted under this section.

**OCC §1702.117. EXAMINATION.** (a) The board shall require an applicant for a license under this chapter or the applicant's manager to demonstrate qualifications in the person's license classification, including knowledge of ap-

plicable state laws and board rules, by taking an examination to be determined by the board.

(b) Payment of the application fee entitles the applicant or the applicant's manager to take one examination without additional charge. A person who fails the examination must pay a reexamination fee to take a subsequent examination.

(c) The board shall set the reexamination fee in an amount not to exceed the amount of the renewal fee for the license classification for which application was made.

(d) The board shall develop and provide to a person who applies to take the examination under Subsection (a) material containing all applicable state laws and board rules.

**OCC §1702.118. EXAMINATION RESULTS.** (a) Not later than the 30th day after the date a person takes a licensing examination under this chapter, the board shall notify the person of the examination results.

(b) If an examination is graded or reviewed by a testing service:

(1) the board shall notify the person of the examination results not later than the 14th day after the date the board receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the board shall notify the person of the reason for the delay before the 90th day.

(c) The board may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a licensing examination administered under this chapter, the board shall furnish the person with an analysis of the person's performance on the examination.

#### **OCC §1702.1183. RECIPROCAL LICENSE FOR CERTAIN FOREIGN APPLICANTS.**

(a) The board may waive any prerequisite to obtaining a license for an applicant who holds a license issued by another jurisdiction with which this state has a reciprocity agreement.

(b) The board may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

**OCC §1702.1186. PROVISIONAL LICENSE.** (a) The board may issue a provisional license to an applicant currently licensed in another jurisdiction who seeks an equivalent license in this state and who:

(1) has been licensed in good standing as an investigations company or security services contractor for at least two years in another jurisdiction, including a foreign country, that has licensing requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the board relating to the practice of private investigations or security services contracting; and

(3) is sponsored by a person licensed by the board under this chapter with whom the provisional license holder will practice during the time the person holds a provisional license.

(b) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this chapter to the provisional license holder if:

(1) the provisional license holder is eligible to be licensed under Section 1702.1183; or

(2) the provisional license holder:

(A) passes the part of the examination under Section 1702.117(a) that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of an investigations company or security services contractor in this state;

(B) is verified by the board as meeting the academic and experience requirements for a license under this chapter; and

(C) satisfies any other licensing requirements under this chapter.

(c) The board must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The board may extend the 180-day period if the results of an examination have not been received by the board before the end of that period.

(d) The board may establish a fee for provisional licenses in an amount reasonable and necessary to cover the cost of issuing the license.

**OCC §1702.119. MANAGER REQUIRED.** (a) A license holder's business shall be operated under the direction and control of one manager. A license holder may not apply to designate more than one individual to serve as manager of the license holder's business.

(b) An individual may not act as a manager until the individual has:

(1) demonstrated the individual's qualifications by passing the written examination required by Section 1702.117(a); and

(2) made a satisfactory showing to the department that the individual:

(A) satisfies the requirements of Section 1702.113 and meets all qualification and experience requirements set by rule for a manager of the type of company for which the individual is applying; and

(B) has not engaged in conduct regarding a violation or conviction that is grounds for disciplinary action under Section 1702.361(b) or 1702.3615(a).

(c) If a manager lacks the experience to qualify to manage each category of service included in a license or application, the license holder must designate a supervisor qualified under Subsection (b) who is responsible for each service for which the manager is not qualified.

**OCC §1702.120. FALSE APPLICATION OF MANAGER.** (a) An individual may not:

(1) serve as manager of an investigations company, guard company, alarm systems company, armored car company, courier company, or guard dog company; and

(2) fail to maintain that supervisory position on a daily basis for that company.

(b) An individual may not apply to the board to serve as manager of an investigations company, guard company, alarm systems company, armored car company, courier company, or guard dog company without the intent to maintain that supervisory position on a daily basis for that company.

**OCC §1702.121. TERMINATION OF MANAGER.** (a) A license holder shall notify the board in writing not later than the 14th day after the date a manager ceases to be manager of the license holder's business. The license remains in effect for a reasonable period after notice is given as provided by board rule pending the board's de-

termination of the qualification of another manager under this subchapter.

(b) A manager shall be immediately terminated on the effective date of any summary action taken against the manager. Any period of temporary operation authorized under this section or Section 1702.122 starts on the date of termination.

**OCC §1702.122. TEMPORARY CONTINUATION OF LICENSE HOLDER'S BUSINESS.** Under the terms provided by board rule, a license holder's business may continue for a temporary period if the individual on the basis of whose qualifications a license under this chapter has been obtained ceases to be connected with the license holder.

**OCC §1702.123. INSURANCE; BOND.** (a) A license holder shall maintain on file with the board at all times the surety bond and certificate of insurance required by this chapter.

(b) The board shall immediately suspend the license of a license holder who violates Subsection (a).

(c) The board may rescind the license suspension if the license holder provides proof to the board that the bond or the insurance coverage is still in effect. The license holder must provide the proof in a form satisfactory to the board not later than the 10th day after the date the license is suspended.

(d) After suspension of the license, the board may not reinstate the license until an application, in the form prescribed by the board, is filed accompanied by a proper bond, insurance certificate, or both. The board may deny the application notwithstanding the applicant's compliance with this section:

(1) for a reason that would justify suspending, revoking, or denying a license; or

(2) if, during the suspension, the applicant performs a practice for which a license is required.

**OCC §1702.124. INSURANCE REQUIREMENT.** (a) An applicant is not eligible for a license unless the applicant provides as part of the application:

(1) a certificate of insurance or other documentary evidence of a general liability insurance policy countersigned by an insurance agent licensed in this state; or

(2) a certificate of insurance for surplus lines coverage obtained under Chapter 981, Insurance Code, through a licensed Texas surplus lines agent resident in this state.

(b) The general liability insurance policy must be conditioned to pay on behalf of the license holder damages that the license holder becomes legally obligated to pay because of bodily injury, property damage, or personal injury, caused by an event involving the principal, or an officer, agent, or employee of the principal, in the conduct of any activity or service for which the license holder is licensed under this chapter.

(c) The insurance policy must contain minimum limits of:

(1) \$100,000 for each occurrence for bodily injury and property damage;

(2) \$50,000 for each occurrence for personal injury; and

(3) a total aggregate amount of \$200,000 for all occurrences.

(d) A person who is licensed to install and service fire alarms under Article 5.43-2, Insurance Code, complies with the insurance requirements of this section by complying with the insurance requirement of that article if the insurance held by the applicant complies with the requirements of this section in amounts and types of coverage.

(e) An insurance certificate executed and filed with the department under this chapter remains in effect until the insurer terminates future liability by providing to the department at least 10 days' notice of the intent to terminate liability.

**OCC §1702.125. BOND REQUIREMENT.** AA bond executed and filed with the board under this chapter remains in effect until the surety terminates future liability by providing to the board at least 30 days' notice of the intent to terminate liability.

**OCC §1702.127. LICENSE HOLDER EMPLOYEES; RECORDS.** (a) A license holder may be legally responsible for the conduct in the license holder's business of each employee of the license holder while the employee is performing assigned duties for the license holder.

(b) A license holder shall maintain a record containing information related to the license holder's employees as required by the board.

(c) A license holder shall maintain for inspection by the department at the license holder's principal place of business or branch office two recent color photographs, of a type required by the board, of each applicant, registrant, commissioned security officer, and employee of the license holder.

(d) A license holder shall maintain records required under this chapter at a physical address within this state and provide that address to the board.

**OCC §1702.128. POSTING OF LICENSE REQUIRED.**

A license holder shall at all times post:

- (1) the person's license in a conspicuous place in the principal place of business of the license holder; and
- (2) each branch office license in a conspicuous place in each branch office of the license holder.

**OCC §1702.129. NOTICE OF CERTAIN CHANGES; BRANCH OFFICES.** (a) A license holder shall notify the board not later than the 14th day after the date of:

- (1) a change of address for the license holder's principal place of business;
- (2) a change of a name under which the license holder does business; or
- (3) a change in the license holder's officers or partners.

(b) A license holder shall notify the board in writing not later than the 14th day after the date a branch office:

- (1) is established;
- (2) is closed; or
- (3) changes address or location.

**OCC §1702.130. USE OF CERTAIN TITLES, UNIFORMS, INSIGNIA, OR IDENTIFICATIONS PROHIBITED.** (a) A license holder, or an officer, director, partner, manager, or employee of a license holder, may not:

- (1) use a title, an insignia, or an identification card, wear a uniform, or make a statement with the intent to give an impression that the person is connected with the

federal government, a state government, or a political subdivision of a state government; or

(2) use a title, an insignia, or an identification card or wear a uniform containing the designation "police."

(b) Subsection (a) does not prohibit a commissioned security officer employed by a political subdivision of this state from using a title, insignia, or identification card, wearing a uniform, or making a statement indicating the employment of that individual by the political subdivision.

**OCC §1702.131. ADVERTISING.** An advertisement by a license holder soliciting or advertising business must contain the license holder's company name and address as stated in board records.

**OCC §1702.132. REPORTS TO EMPLOYER OR CLIENT.** (a) A written report submitted to a license holder's employer or client may only be submitted by the license holder or manager or a person authorized by a license holder or manager. The person submitting the report shall exercise diligence in determining whether the information in the report is correct.

(b) A license holder or an officer, director, partner, manager, or employee of a license holder may not knowingly make a false report to the employer or client for whom information is obtained.

**OCC §1702.133. CONFIDENTIALITY; INFORMATION RELATING TO CRIMINAL OFFENSE.** (a) A license holder or an officer, director, partner, or manager of a license holder may not disclose to another information obtained by the person for an employer or client except:

- (1) at the direction of the employer or client; or
- (2) as required by state law or court order.

(b) A license holder or an officer, director, partner, or manager of a license holder shall disclose to a law enforcement officer or a district attorney, or that individual's representative, information the person obtains that relates to a criminal offense. A private investigator who is working under the direct supervision of a licensed attorney satisfies this requirement by disclosing the information to the supervising attorney.

**OCC §1702.134. LICENSE HOLDER EXEMPTIONS FROM CERTAIN LOCAL REGULATIONS.** (a) A license holder or an employee of a license holder is not required to obtain an authorization, permit, franchise, or license from, pay another fee or franchise tax to, or post a bond in a municipality, county, or other political subdivision of this state to engage in business or perform a service authorized under this chapter.

(b) A municipality, county, or other political subdivision of this state may not require a payment for the use of municipal, county, or other public facilities in connection with a business or service provided by a license holder, except that a municipality may impose and collect:

- (1) a reasonable charge for the use of a central alarm installation located in a police office that is owned, operated, or monitored by the municipality; and
- (2) reasonable inspection and reinspection fees in connection with a device that causes at least five false alarms in a 12-month period.

(c) A municipality may require, until the device is repaired to the satisfaction of the appropriate municipal official, discontinuation of service of an alarm signal device that, because of mechanical malfunction or faulty equip-



ment, causes at least five false alarms in a 12-month period.

(d) For the purposes of Subsection (c), a false alarm caused by human error or an act of God is not considered a mechanical malfunction or faulty equipment.

## **SUBCHAPTER G. SECURITY OFFICER COMMISSION REQUIREMENTS**

**OCC §1702.161. SECURITY OFFICER COMMISSION REQUIRED.** (a) An individual may not accept employment as a security officer to carry a firearm in the course and scope of the individual's duties unless the individual holds a security officer commission.

(b) An individual employed as a security officer may not knowingly carry a firearm during the course of performing duties as a security officer unless the board has issued a security officer commission to the individual.

(c) A person may not hire or employ an individual as a security officer to carry a firearm in the course and scope of the individual's duties unless the individual holds a security officer commission.

**OCC §1702.162. EMPLOYER'S APPLICATION FOR SECURITY OFFICER COMMISSION.** The employer of a security officer who applies for a security officer commission for the officer must submit an application to the board on a form provided by the board

**OCC §1702.163. QUALIFICATIONS FOR SECURITY OFFICER COMMISSION.** (a) An applicant employed by a license holder is not eligible for a security officer commission unless the applicant submits as part of the application satisfactory evidence that the applicant has:

(1) completed the basic training course at a school or under an instructor approved by the board;

(2) met each qualification established by this chapter and administrative rule;

(3) achieved the score required by the board on the examination under Section 1702.1685; and

(4) demonstrated to the satisfaction of the firearm training instructor that the applicant has complied with other board standards for minimum marksmanship competency with a handgun.

(b) An individual is not eligible for a security officer commission if the individual:

(1) is disqualified by state or federal law from owning or possessing a firearm;

(2) is incapable of exercising sound judgment in the proper use and storage of a handgun;

(3) is a fugitive from justice for a felony or a Class A or Class B misdemeanor;

(4) is a chemically dependent person; or

(5) is currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests.

(c) An individual who has been convicted twice in the 10-year period preceding the date on which the person applies for a security officer commission of an offense of the grade of Class B misdemeanor or greater that involves the use of alcohol or a controlled substance as a statutory element of the offense is a chemically dependent person for purposes of this section and is not qualified to receive a security officer commission under this subchapter. This subsection does not preclude the dis-

qualification of an individual for being a chemically dependent person if other evidence exists to demonstrate that the person is a chemically dependent person.

(d) For purposes of Subsection (b)(2), a person is incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person:

(1) has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability;

(2) suffers from a psychiatric disorder or condition described by Subdivision (1) that:

(A) is in remission but is reasonably likely to redevelop at a future time; or

(B) requires continuous medical treatment to avoid redevelopment;

(3) has been diagnosed by a licensed physician or declared by a court as incompetent to manage the person's own affairs; or

(4) has entered a plea of not guilty by reason of insanity in a criminal proceeding.

(d-1) For the purposes of determining eligibility under Subsection (b)(2), the department may require the applicant to authorize the release to the department of any relevant medical records.

(e) The following constitutes evidence that a person has a psychiatric disorder or condition described by Subsection (d)(1):

(1) involuntary psychiatric hospitalization in the five years preceding the date of the application;

(2) psychiatric hospitalization in the two years preceding the date of the application;

(3) inpatient or residential substance abuse treatment in the five years preceding the date of the application;

(4) diagnosis in the five years preceding the date of the application by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or

(5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:

(A) schizophrenia or delusional disorder;

(B) bipolar disorder;

(C) chronic dementia, whether caused by illness, brain defect, or brain injury;

(D) dissociative identity disorder;

(E) intermittent explosive disorder; or

(F) antisocial personality disorder.

(f) Notwithstanding Subsection (d), a person who has previously been diagnosed as suffering from a psychiatric disorder or condition described by Subsection (d) or listed in Subsection (e) is not because of that disorder or condition incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person provides the department with a certificate from a licensed physician whose primary practice is in the field of psychiatry stating that the psychiatric disorder or condition is in remission and is not reasonably likely to develop at a future time.

(g) An individual's eligibility under this section is not affected by a relationship or lack of relationship between the nature of a criminal charge or conviction and the regulated occupation.



**OCC §1702.165. ISSUANCE OF SECURITY OFFICER COMMISSION; POCKET CARD.** (a) The board, with the concurrence of the department:

(1) may issue a security officer commission to an individual employed as a uniformed security officer; and

(2) shall issue a security officer commission to a qualified employee of an armored car company that is a carrier conducting the armored car business under a federal or state permit or certificate.

(b) A security officer commission issued under this section must be in the form of a pocket card designed by the board that identifies the security officer.

**OCC §1702.167. TERMINATION OF EMPLOYMENT AS COMMISSIONED SECURITY OFFICER; TRANSFER OF COMMISSION.** The holder of a security officer commission who terminates employment with one employer may transfer the individual's commission to a new employer if, not later than the 14th day after the date the individual begins the new employment, the new employer notifies the board of the transfer of employment on a form prescribed by the board, accompanied by payment of the employee information update fee.

**OCC §1702.1675. TRAINING PROGRAMS.** (a) The board shall establish a basic training course for commissioned security officers. The course must include, at a minimum:

(1) general security officer training issues;  
(2) classroom instruction on handgun proficiency; and

(3) range instruction on handgun proficiency.

(b) The course must be offered and taught by schools and instructors approved by the board. To receive board approval, a school or an instructor must submit an application to the board on a form provided by the board.

(c) The basic training course approved by the board must consist of a minimum of 30 hours.

(d) The general security officer training portion of the course must include instruction on:

(1) board rules and applicable state laws;  
(2) field note taking and report writing; and  
(3) any other topics of security officer training curriculum the board considers necessary.

(e) The board shall develop a commissioned security officer training manual that contains applicable state laws and board rules to be used in the instruction and training of commissioned security officers.

(f) The board shall adopt rules necessary to administer the provisions of this section concerning the training requirements of this chapter.

(g) The handgun proficiency course must include at least 10 hours and not more than 15 hours of instruction on:

(1) the laws that relate to weapons and to the use of deadly force;  
(2) handgun use, proficiency, and safety;  
(3) nonviolent dispute resolution; and  
(4) proper storage practices for handguns, with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(h) The range instruction on handgun proficiency must include an actual demonstration by the applicant of the applicant's ability to safely and proficiently use a handgun. The applicant must demonstrate, at a minimum, the de-

gree of proficiency that is required to effectively operate a 9-millimeter or .38-caliber handgun.

(i) The board by rule shall establish minimum standards for handgun proficiency that are at least as stringent as the standards for handgun proficiency developed by the public safety director under Section 411.188, Government Code.

**OCC §1702.168. FIREARM REQUIREMENTS.** (a) In addition to the requirements of Section 1702.163(a), the board by rule shall establish other qualifications for individuals who are employed in positions requiring the carrying of firearms. The qualifications may include:

(1) physical and mental standards;

(2) standards of good moral character; and

(3) other requirements that relate to the competency and reliability of individuals to carry firearms.

(b) The board shall prescribe appropriate forms and adopt rules by which evidence is presented that the requirements are fulfilled.

**OCC §1702.1685. HANDGUN PROFICIENCY EXAMINATION.** (a) The proficiency examination required to obtain or renew a security officer commission must include:

(1) a written section on the subjects listed in Section 1702.1675(g); and

(2) a physical demonstration of handgun proficiency that meets the minimum standards established under Section 1702.1675(h) or (i).

(b) Only a board-approved instructor may administer the handgun proficiency examination.

(c) An applicant for a security officer commission must demonstrate the required proficiency within the 90-day period before the date the security officer commission is issued.

(d) The school shall maintain the records of the required proficiency and make the records available for inspection by the board.

**OCC §1702.169. FIREARM RESTRICTIONS.** A commissioned security officer other than a person acting as a personal protection officer may not carry a firearm unless:

(1) the security officer is:

(A) engaged in the performance of duties as a security officer; or

(B) traveling to or from the place of assignment;

(2) the security officer wears a distinctive uniform indicating that the individual is a security officer; and

(3) the firearm is in plain view[].

**OCC §1702.170. NONAPPLICABILITY OF FIREARM RESTRICTIONS.** Sections 1702.161, 1702.169, and 1702.206 do not apply to the holder of a temporary security officer commission who:

(1) is in uniform;

(2) possesses only one firearm; and

(3) is performing the individual's duties.

**OCC §1702.171. SECURITY OFFICER COMMISSION RECORDS.** The board shall adopt rules for the maintenance of records relating to an individual to whom the board has issued a security officer commission.

**SUBCHAPTER H. EMPLOYMENT OF COMMISSIONED SECURITY OFFICER BY CERTAIN PERSONS; LETTER OF AUTHORITY REQUIREMENTS**

**OCC §1702.181. LETTER OF AUTHORITY REQUIRED.**

The security department of a private business or a political subdivision may not employ a commissioned security officer unless the security department holds a letter of authority.

**OCC §1702.182. SECURITY DEPARTMENT OF PRIVATE BUSINESS.** (a) A security department acts as the security department of a private business if it:

(1) has as its general purpose the protection and security of its own property and grounds; and

(2) does not offer or provide security services to another person.

(b) For purposes of this subchapter, a hospital licensed under Chapter 241 or 577, Health and Safety Code, may provide security services to:

(1) buildings, grounds, and tenants located on the hospital's property or campus, regardless of who owns the building; and

(2) a parent entity or member entity of the hospital or hospital corporation, or an affiliated entity or business with whom the hospital shares common ownership or control.

**OCC §1702.183. APPLICATION FOR LETTER OF AUTHORITY.** A security department of a private business or of a political subdivision that applies for a security officer commission for an individual employed by the security department must submit an application to the board for a letter of authority on a form provided by the board.**OCC §1702.184. LOCAL REGULATION OF CERTAIN SECURITY SERVICES FOR PRIVATE BUSINESSES.**

(a) Except as provided by Subsection (b), a political subdivision of this state may not require a private business to contract with or employ a peace officer to provide security services for the business.

(b) This section does not apply to:

(1) a requirement that a private business contract with or employ a peace officer to:

(A) provide security services for a public event;

(B) provide security services for a private event held at a public facility that is owned or leased by a political subdivision of this state;

(C) conduct a public escort; or

(D) direct traffic on a public roadway; or

(2) an order or determination made by a court under Chapter 125, Civil Practice and Remedies Code.

**SUBCHAPTER I. PERSONAL PROTECTION OFFICER ENDORSEMENT REQUIREMENTS****OCC §1702.201. PERSONAL PROTECTION OFFICER ENDORSEMENT REQUIRED.** An individual may not act as a personal protection officer unless the individual holds a personal protection officer endorsement.**OCC §1702.202. PERSONAL PROTECTION OFFICER.**

An individual acts as a personal protection officer if the individual, while carrying a firearm, provides to another individual personal protection from bodily harm.

**OCC §1702.203. APPLICATION FOR PERSONAL PROTECTION OFFICER ENDORSEMENT.** An applicant for a personal protection officer endorsement must submit a written application on a form prescribed by the board.**OCC §1702.204. PERSONAL PROTECTION OFFICER ENDORSEMENT; QUALIFICATIONS.** (a) An applicant for a personal protection officer endorsement must be at least 21 years of age and must provide:

(1) a certificate of completion of the basic security officer training course;

(2) proof that the applicant:

(A) has been issued a security officer commission;

(B) is employed at the time of application by an investigations company or guard company licensed by the board; and

(C) has completed the required training in nonlethal self-defense or defense of a third person; and

(3) proof of completion and the results of the Minnesota Multiphasic Personality Inventory psychological testing.

(b) The board by rule shall require an applicant for a personal protection officer endorsement to complete the Minnesota Multiphasic Personality Inventory test. The board may use the results of the test to evaluate the applicant's psychological fitness.

**OCC §1702.205. PERSONAL PROTECTION OFFICER TRAINING.** (a) The board shall establish a 15-hour course for a personal protection officer consisting of training in nonlethal self-defense or defense of a third person.

(b) The training required by this section is in addition to the basic training course for security officers.

**OCC §1702.206. LIMITED AUTHORITY TO CARRY FIREARMS.** (a) An individual acting as a personal protection officer may not carry a firearm unless the officer:

(1) is either:

(A) engaged in the exclusive performance of the officer's duties as a personal protection officer for the employer under whom the officer's personal protection officer endorsement is issued; or

(B) traveling to or from the officer's place of assignment; and

(2) carries the officer's security officer commission and personal protection officer endorsement on the officer's person while performing the officer's duties or traveling as described by Subdivision (1) and presents the commission and endorsement on request.

(b) An individual who is acting as a personal protection officer and is wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), may not conceal any firearm the individual is carrying and shall carry the firearm in plain view. An individual who is acting as a personal protection officer and is not wearing the uniform of a security officer shall conceal the firearm.

**SUBCHAPTER J. REGISTRATION AND ENDORSEMENT REQUIREMENTS; DUTIES OF REGISTRANT AND ENDORSEMENT HOLDER****OCC §1702.221. REGISTRATION AND ENDORSEMENT REQUIRED.** (a) To perform any activity regulated by this chapter, the individual must:

(1) register in accordance with the requirements of this chapter and related administrative rules;

(2) obtain the proper endorsement under Subsection (b); and

(3) be employed by a company licensed under this chapter.

(b) An individual must obtain the appropriate endorsement in accordance with the requirements of this chapter and related administrative rules if the individual:

(1) is employed as:

- (A) an alarm instructor;
- (B) an alarm systems installer;
- (C) an alarm systems monitor;
- (D) an electronic access control device installer;
- (E) a level 3 classroom or firearm instructor;
- (F) a locksmith;
- (G) a dog trainer;
- (H) a manager or branch office manager;
- (I) a noncommissioned security officer;
- (J) a level 4 personal protection instructor;
- (K) a private investigator;
- (L) a private security consultant;
- (M) a security salesperson; or

(N) an individual whose duties include performing another activity for which an endorsement is required under Subsection (e); or

(2) is an owner who oversees the security-related aspects of the business, officer, partner, or shareholder of a license holder.

(c) Registration and endorsement under this chapter does not preclude an individual from performing additional duties or services authorized by the individual's employer that are not regulated by this chapter. An individual who performs more than one of the services that require an endorsement under this section must obtain an endorsement for each service.

(d) In addition to the services listed in Subsection (b), a person holding a security officer commission must also obtain an endorsement for personal protection if the individual performs the services described by Section 1702.202.

(e) The board by rule may require a person to hold an endorsement for performing other activity expressly regulated by this chapter.

**OCC §1702.222. SECURITY OFFICER.** An individual acts as a security officer for purposes of this chapter if the individual is:

- (1) employed by a security services contractor or the security department of a private business; and
- (2) employed to perform the duties of an alarm systems response runner who responds to the first signal of entry, a security guard, security watchman, security patrolman, armored car guard, or courier guard.

**OCC §1702.2225. LOCKSMITH COMPANY REGISTRATION REQUIRED.** \* [repealed by Acts effective September 1, 2007, 80th Leg., R.S., H.B. 2833, §30.]

**OCC §1702.2226. ELECTRONIC ACCESS CONTROL DEVICE INSTALLER.** (a) An individual acts as an electronic access control device installer for purposes of this chapter if the individual installs, maintains, or repairs an electronic access control device.

(b) A person registered as an electronic access control device installer may not install alarm systems unless the person holds an endorsement under this chapter as an alarm systems installer.

**OCC §1702.2227. LOCKSMITH.** (a) An individual acts as a locksmith for the purposes of this chapter if the person:

(1) sells, installs, services, or maintains mechanical security devices, including deadbolts and locks; or

(2) advertises or offers services to the public or represents to the public that the person is a locksmith.

(b) This section does not apply to a hotel, as that term is defined by Section 156.001, Tax Code.

**OCC §1702.223. ALARM SYSTEMS INSTALLER.** (a) An individual acts as an alarm systems installer for purposes of this chapter if the individual installs, maintains, or repairs an alarm system or detection device.

(b) An alarm systems installer may install, maintain, or repair an electronic access control device.

**OCC §1702.224. ALARM SYSTEMS MONITOR.** (a) An individual acts as an alarm systems monitor for purposes of this chapter if the individual monitors an alarm system or detection device.

(b) This section does not apply to an individual employed exclusively and regularly by an employer, other than a license holder, in connection with the affairs of that employer and with whom the individual has an employee-employer relationship.

**OCC §1702.225. DOG TRAINER.** An individual acts as a dog trainer for purposes of this chapter if the individual, as the employee of a licensed guard dog company or investigations company, trains a dog used to protect persons or property or to conduct investigations.

**OCC §1702.227. SECURITY SALESPERSON.** An individual acts as a security salesperson for purposes of this chapter if the individual is employed by a security services contractor to sell services offered by the contractor.

**OCC §1702.228. EMPLOYEE OF LICENSE HOLDER; REGISTRATION PERMITTED.** An employee of a license holder who is employed in a capacity that is not subject to mandatory registration under this subchapter may register with the board.

**OCC §1702.229. QUALIFICATIONS FOR REGISTRATION.** (a) An applicant for registration must meet the qualifications required under Section 1702.113 for a license applicant.

(b) In accordance with the requirements of Section 1702.0611, the board by rule may adopt additional qualifications for an individual to be registered under this subchapter.

**OCC §1702.230. APPLICATION FOR REGISTRATION OR ENDORSEMENT.** (a) An application for registration or endorsement must be verified and include:

(1) the applicant's full name, residence address, residence telephone number, date and place of birth, and social security number;

(2) a statement that:

(A) lists each name used by the applicant, other than the name by which the applicant is known at the time of application, and an explanation stating each place where each name was used, the date of each use, and a full explanation of the reasons the name was used; or

(B) states that the applicant has never used a name other than the name by which the applicant is known at the time of application;

(3) the name and address of the applicant's employer and, if applicable, the applicant's consulting firm;

(4) the date the employment commenced;

(5) a letter from the license holder requesting that the applicant be registered or endorsed;

(6) the title of the position occupied by the applicant and a description of the applicant's duties; and

(7) any other information, evidence, statement, or document required by the board.

(b) The employer of the applicant shall make a reasonable attempt to verify the information required under Subsection (a)(1) before the earlier of:

(1) the date the application is submitted; or

(2) the date the applicant begins to perform the duties of employment that require registration.

(c) An applicant must submit an application that substantially meets the requirements of this section before employment in a capacity for which registration is required.

#### **OCC §1702.2305. PROVISIONAL REGISTRATION.** (a)

The board may issue a provisional registration to an applicant currently registered in another jurisdiction who seeks an equivalent registration in this state and who:

(1) has been registered in good standing in the field in which the registration is sought for at least two years in another jurisdiction, including a foreign country, that has registration requirements substantially equivalent to the requirements of this chapter;

(2) has passed a national or other examination recognized by the board relating to practice in the field in which the registration is sought; and

(3) is employed by a person licensed by the board under this chapter with whom the provisional registration holder will practice during the time the person holds a provisional registration.

(b) A provisional registration is valid until the date the board approves or denies the provisional registration holder's application for a registration. The board shall issue a registration under this chapter to the provisional registration holder if the provisional registration holder is eligible to be registered under this chapter.

(c) The board must approve or deny a provisional registration holder's application for a registration not later than the 180th day after the date the provisional registration is issued. The board may extend the 180-day period if the results of an examination have not been received by the board before the end of that period.

(d) The board may establish a fee for provisional registration in an amount reasonable and necessary to cover the cost of issuing the registration.

**OCC §1702.232. POCKET CARDS.** a) The board shall issue a pocket card for each registrant under this chapter. A pocket card for an owner, officer, partner, or shareholder of a license holder shall be issued to the license holder.

(b) The board shall determine the size, design, and content of the pocket card.

(c) The pocket card must:

(1) state the name of the registrant;

(2) contain a color photograph, affixed to the pocket card by the board at the time the card is issued, and the signature of the registrant;

(3) state the date the card was issued and the card's expiration date; and

(4) state each endorsement held by the registrant and the date the endorsement expires.

**OCC §1702.233. DURATION OF POCKET CARDS.** A pocket card issued for a registrant is valid for two years and expires on the date the registration expires under Section 1702.301(d), (e), or (f).

**OCC §1702.234. REGISTRATION AND ENDORSEMENT TRANSFER.** A registrant may transfer the registrant's registration and endorsements from one employer to another employer if, not later than the 14th day after the date the registrant begins the new employment, the new employer notifies the board of the transfer of employment on a form prescribed by the board accompanied by payment of the employee information update fee.

**OCC §1702.235. PREEMPLOYMENT CHECK FOR NONCOMMISSIONED SECURITY OFFICERS.** A person may not hire a noncommissioned security officer unless the person conducts a preemployment check as required by board rule.

**OCC §1702.236. EXAMINATION AND TRAINING REQUIREMENTS FOR ELECTRONIC ACCESS CONTROL DEVICE INSTALLERS.** (a) The board shall require an individual who applies for an endorsement as an electronic access control device installer to pass an examination given by the board or a person approved by the board. The examination must cover material related to access control.

(b) On and after September 1, 2005, the board by rule may allow an electronic access control device installer to obtain or renew an endorsement by fulfilling the requirements of a board-approved, industry-based educational training program.

**OCC §1702.239. TRAINING REQUIREMENTS FOR ALARM SYSTEMS INSTALLER AND SECURITY SALESPERSON; EXAMINATION.** (a) The board may require that an individual employed as an alarm systems installer or security salesperson hold a certification by a board-approved training program to renew an endorsement. The board may approve only nationally recognized training programs that consist of at least 16 hours of classroom study in the areas of work allowed by the endorsement. To be approved, a training program must offer at least two certification programs each year, sufficient to complete the requirements of this subsection, within 100 miles of each county in the state that has a population of more than 500,000.

(b) The board may require an individual who has completed a training program under Subsection (a) to pass an examination given by the board or by a person approved by the board. The board may approve examinations in conjunction with training programs approved under Subsection (a). The individual's performance on the examination must demonstrate the individual's qualifications to perform the duties allowed by the individual's endorsement.

(c) An individual who holds a registration on September 30, 1993, is not required to comply with requirements adopted under Subsections (a) and (b) during the time the individual maintains the registration with the individual's current license holder.



(d) If the board requires certification or examination under this section, the board shall implement rules to require that to renew an endorsement, an individual who is employed as an alarm systems installer or a security salesperson and who has already once renewed the endorsement must obtain continuing education credits related to the line of work for which the individual is licensed. If the board requires the continuing education, the chief administrator must approve classes offered by nationally recognized organizations, and participants in the classes must qualify according to board rules.

**OCC §1702.240. REGISTRATION EXEMPTIONS FOR UNDERCOVER AGENT.**

(a) For the purposes of this section, "undercover agent" means an individual hired by a person to perform a job in or for that person, and while performing that job, to act as an undercover agent, an employee, or an independent contractor of a license holder, but supervised by a license holder.

(b) An employee of a license holder who is employed exclusively as an undercover agent is not required to register with the board.

**OCC §1702.241. JURISPRUDENCE EXAMINATION.**

(a) The board may develop and administer at least twice each calendar year a jurisprudence examination to determine the knowledge that an applicant for an endorsement has of this chapter, board rules, and any other applicable laws of this state affecting the applicant's activities regulated under this chapter.

(b) Before the board may administer a jurisprudence examination under this section, the board shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results. The board may design different examinations for different types of endorsements.

**SUBCHAPTER K. \*** *\*[repealed by Acts effective September 1, 2009, 81st Leg., R.S., H.B. 2730, PC §4.102.]*

**SUBCHAPTER L. GENERAL PROVISIONS APPLICABLE TO REGULATED PERSONS**

**OCC §1702.282. CRIMINAL HISTORY CHECK.** (a) The board shall conduct a criminal history check, including a check of any criminal history record information maintained by the Federal Bureau of Investigation, in the manner provided by Subchapter F, Chapter 411, Government Code, on each applicant for a license, registration, security officer commission, letter of approval, permit, endorsement, or certification. As part of its criminal history check, the board may request that the applicant provide certified copies of relevant court documents or other records. The failure to provide the requested records within a reasonable time as determined by the board may result in the application being considered incomplete. An applicant is not eligible for a license, registration, commission, letter of approval, permit, endorsement, or certification if the check reveals that the applicant has committed an act that constitutes grounds for the denial of the license, registration, commission, letter of approval, permit, endorsement, or certification. Except as provided by Subsection (d), each applicant shall include in the application two complete sets of fingerprints on forms prescribed by the board accompanied by the fee set by the board.

(b) Before beginning employment as a commissioned security officer, the applicant must be approved by the board based on the results of the check under Subsection (a). To continue employment in a capacity regulated under this chapter other than as a commissioned security officer, the applicant must be approved by the board based on the results of the check under Subsection (a) not later than the 120th day after the date the applicant begins employment in that capacity.

(c) A license, registration, security officer commission, letter of approval, permit, endorsement, or certification issued by the board is conditional on the board's receipt of criminal history record information.

(d) An applicant who is a peace officer is not required to submit fingerprints with the applicant's application. On request, the law enforcement agency or other entity that employs the peace officer or the entity that maintains the peace officer's fingerprints shall provide the fingerprints for the peace officer to the board. The applicant shall provide sufficient information to the board to enable the board to obtain the fingerprints under this subsection.

(e) On receipt of notice that a check of the applicant's criminal record has uncovered an unresolved and potentially disqualifying arrest that occurred before the 10th anniversary of the date the application is filed, the applicant must provide a letter of reference from the county sheriff, prosecuting attorney, or judge of the county in which the applicant was arrested stating that a record of a disposition related to the arrest does not exist, and to the best of the county sheriff's, prosecuting attorney's, or judge's knowledge the applicant is free of any disqualifying convictions. If the applicant fails to provide either the letter of reference or documentary proof of the final disposition of the arrest, the application is considered incomplete and the applicant may not be issued a license, commission, endorsement, or certificate of registration under this chapter.

**OCC §1702.283. CRUELTY TO ANIMALS.** A person who has been convicted of cruelty to animals under Section 42.09 or 42.092, Penal Code:

(1) is ineligible for a license as a guard dog company or for endorsement as a dog trainer; and

(2) may not be employed to work with dogs as a security officer by a security services contractor or security department of a private business that uses dogs to protect individuals or property or to conduct investigations.

**OCC §1702.284. ALARM SYSTEMS RECORDS CONFIDENTIAL.**

(a) Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the board, to the alarm company to which the confidential records relate, or as otherwise required by state law or court order.

(b) Information described by Subsection (a) may be used by the governmental body to inform the occupant of:

(1) the governmental body's alarm system response policy and any proposed change to that policy; and

(2) the option of the occupant to contract with a security services provider to respond to the occupant's alarm.

**OCC §1702.285. FALSE REPRESENTATION.** A person may not represent falsely that the person:



- (1) is employed by a license holder; or
- (2) is licensed, registered, endorsed, or commissioned under this chapter.

**OCC §1702.286. DUTIES OF ALARM SYSTEMS COMPANY.** (a) On the installation or activation of an alarm system, an alarm systems company shall distribute to the occupant of the alarm system location information summarizing:

(1) the applicable law relating to false alarms, including the potential for penalties and revocation or suspension of a permit;

(2) how to prevent false alarms; and

(3) how to operate the alarm system.

(b) An alarm systems company shall notify the municipality in which the alarm system is located of an installation or activation of an alarm system not later than the 30th day after the date of the installation or activation. The alarm systems company shall provide to the municipality:

(1) the alarm systems company name;

(2) the alarm systems company license number;

(3) the name of the occupant of the alarm system location;

(4) the address of the alarm system location; and

(5) the date of installation or activation.

(c) Information provided to a governmental body under this section is confidential and subject to disclosure only as provided under Section 1702.284.

(d) An alarm systems company commits an offense if the company violates Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

(e) The duties imposed by this section on an alarm systems company do not apply to the installation or activation of a personal emergency response system, as defined under Section 1702.331.

**OCC §1702.2865. CUSTOMER AUTHORIZATION REQUIRED FOR CERTAIN LOCKSMITH SERVICES.**

(a) A locksmith company or locksmith may not perform services for a customer who seeks entry to a structure, motor vehicle, or other property unless the customer, in the course of the transaction:

(1) shows the locksmith company or locksmith a government-issued identification; and

(2) provides a signed authorization stating that the customer owns or is otherwise entitled to legal access to the structure, motor vehicle, or other property.

(b) A locksmith company or locksmith is exempt from Subsection (a) if the locksmith is requested to perform services in a case of imminent threat to a person or property.

**OCC §1702.287. DETECTION DEVICE CONTROL PANELS; MINIMUM STANDARDS.** An alarm systems company may not install any alarm system on or after January 1, 2007, that includes a detection device control panel unless the control panel meets or exceeds the standards of the American National Standards Institute for false alarm reduction.

**OCC §1702.288. NOTICE OF CERTAIN INFORMATION TO RECIPIENT OF ALARM SYSTEM SERVICES.** (a)

The board shall adopt rules in accordance with this section that require a license holder acting as an alarm systems company under this chapter to inform each of the license holder's clients that the client is entitled to receive

a written contract for alarm system services that contains the client's fee arrangement and other relevant information about services to be rendered.

(b) The rules shall require that a written contract for alarm system services shall be furnished to a client in accordance with Subsection (a) not later than the seventh day after the date the client requests the written contract.

(c) The rules shall require that the written contract for services shall be dated and signed by the owner or manager of an alarm systems company or a person expressly authorized by the owner or manager to sign written contracts on behalf of the company.

(d) The rules shall require that, not later than the seventh day after the date of entering into a contract for services regulated by the board with another alarm systems company or alarm systems monitor, an alarm systems company shall:

(1) notify the recipient of those services of the name, address, and telephone number and individual to contact at the company that purchased the contract;

(2) notify the recipient of services at the time the contract is negotiated that another licensed company may provide any of the services requested by subcontracting or outsourcing those services; and

(3) if any of the services are subcontracted or outsourced to a licensed third party, notify the recipient of services, by mail, of the name, address, phone number, and license number of the company providing those services.

(e) The rules shall require that notice provided to a recipient of services under Subsection (d) shall:

(1) be mailed to the recipient in a written form that emphasizes the required information; and

(2) include stickers or other materials to be affixed to an alarm system indicating the alarm systems company's or alarm systems monitor's new telephone number.

**SUBCHAPTER M. EXPIRATION; RENEWAL**

**OCC §1702.301. EXPIRATION.** (a) A license is valid for one year from the date of issuance. A license expires at midnight on the last day of the 11th month after the month in which it is issued.

(b) A security officer commission expires on the second anniversary of the date the commission is issued.

(c) A personal protection officer endorsement expires on the expiration date of the security officer commission under which the individual's endorsement is issued.

(d) Endorsement as a private investigator, manager, branch office manager, alarm systems installer, security consultant, security salesperson, alarm systems monitor, or dog trainer expires on the second anniversary of the date of endorsement.

(e) Endorsement as an owner, officer, partner, or shareholder of a license holder expires on the second anniversary of the date of endorsement.

(f) Endorsement as a noncommissioned security officer expires on the second anniversary of the date of endorsement.

(g) A letter of authority, or a school approval or school instructor approval letter issued by the board, expires on the first anniversary of the date of issuance.

(h) A license, registration, or endorsement issued under this chapter, other than one specified in this section, expires on the date specified by this chapter or by board rule.

**OCC §1702.302. LICENSE RENEWAL.** (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the board before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the board a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose license has been expired for longer than 90 days but less than one year may renew the license by paying to the board a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose license has been expired for one year or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

(e) Not later than the 30th day before the date a person's license is scheduled to expire, the board shall send written notice of the impending expiration to the person at the person's last known address according to the board's records.

**OCC §1702.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER.** A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date the person applies for renewal may obtain a new license without reexamination. The person must pay to the board a fee that is equal to two times the normally required renewal fee for the license.

**OCC §1702.304. STAGGERED RENEWAL; PRORATION OF LICENSE FEE.** The board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the expiration date of a license is changed, the board shall prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

**OCC §1702.305. EFFECT OF LICENSE RENEWAL ON DISCIPLINARY ACTION.** Renewal of a license does not prohibit the bringing of disciplinary proceedings for an act committed before the effective date of the renewal.

**OCC §1702.306. EFFECT OF SUSPENSION ON LICENSE RENEWAL REQUIREMENTS.** A suspended license expires on the license's expiration date and may be renewed as provided by this chapter, but the renewal does not entitle the license holder, while the license remains suspended and until the license is reinstated, to engage in the licensed activity or in conduct in violation of the order or judgment by which the license was suspended.

**OCC §1702.307. REGISTRATION RENEWAL.** (a) An individual who is otherwise eligible to renew a registration may renew an unexpired registration by paying the required renewal fee to the board before the expiration date

of the registration. An individual whose registration has expired may not engage in activities that require a registration until the registration has been renewed.

(b) An individual whose registration has been expired for 90 days or less may renew the registration by paying to the board a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) An individual whose registration has been expired for more than 90 days but less than one year may renew the registration by paying to the board a renewal fee that is equal to two times the normally required renewal fee.

(d) An individual whose registration has been expired for one year or more may not renew the registration. The individual may obtain a new registration by complying with the requirements and procedures, including any examination required by the board, for obtaining an original registration.

(e) An individual who was registered in this state, moved to another state, and is currently registered and has been in practice in the other state for the two years preceding the date of application may obtain a new registration without reexamination. The individual must pay to the board a fee that is equal to two times the normally required renewal fee for the registration.

(f) Not later than the 30th day before the expiration date of an individual's registration, the board shall send written notice of the impending expiration to the individual at the individual's last known address according to board records.

**OCC §1702.308. CONTINUING EDUCATION.** (a) This section does not apply to a noncommissioned security officer.

(b) The board shall recognize, prepare, or administer continuing education programs for license holders, commissioned security officers, and endorsement holders. The board shall set the minimum number of hours that must be completed and the types of programs that may be offered.

(c) A license holder, commissioned security officer, or endorsement holder must participate in the programs to the extent required by the board to keep the person's license, commission, or endorsement. A license holder, commissioned security officer, or endorsement holder shall submit evidence of compliance with the board's continuing education requirements in a manner prescribed by the board.

**OCC §1702.309. SECURITY OFFICER COMMISSION RENEWAL.** (a) The board by rule shall develop a continuing education course required for renewal of a security officer commission. Only a board-approved instructor may administer the continuing education course. The course must include at least six hours of instruction determined by the chief administrator of the board.

(b) A commissioned security officer must demonstrate the proficiency required under Section 1702.1685 within the 90-day period before the date the commission is renewed.

## SUBCHAPTER N. EXCEPTIONS

**OCC §1702.321. GOVERNMENT EMPLOYEES.** (a) Except as provided by this section, this chapter does not apply to an officer or employee of the United States, this

state, or a political subdivision of this state while the employee or officer is performing official duties.

(b) The provisions of this chapter relating to security officer commissions apply to a person employed by a political subdivision whose duties include serving as a security guard, security watchman, or security patrolman on property owned or operated by the political subdivision if the governing body of the political subdivision files a written request with the board for the board to issue a commission to the political subdivision's employees with those duties.

(c) The board may not charge a fee for issuing a commission to an officer under Subsection (b). The board shall issue to the officer a pocket card designating the political subdivision that employs the officer.

(d) The commission expires at the time the officer's employment as a security officer by the political subdivision is terminated.

(e) The board may approve a security officer training program conducted by the political subdivision in accordance with Sections 1702.1675 and 1702.168.

#### **OCC §1702.322. LAW ENFORCEMENT PERSONNEL.**

This chapter does not apply to:

(1) a person who has full-time employment as a peace officer and who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, extra job coordinator, or watchman if the officer:

- (A) is employed in an employee-employer relationship or employed on an individual contractual basis:
  - (i) directly by the recipient of the services; or
  - (ii) by a company licensed under this chapter;
- (B) is not in the employ of another peace officer;
- (C) is not a reserve peace officer; and
- (D) works as a peace officer on the average of at least 32 hours a week, is compensated by the state or a political subdivision of the state at least at the minimum wage, and is entitled to all employee benefits offered to a peace officer by the state or political subdivision;

(2) a reserve peace officer while the reserve officer is performing guard, patrolman, or watchman duties for a county and is being compensated solely by that county;

(3) a peace officer acting in an official capacity in responding to a burglar alarm or detection device; or

(4) a person engaged in the business of electronic monitoring of an individual as a condition of that individual's community supervision, parole, mandatory supervision, or release on bail, if the person does not perform any other service that requires a license under this chapter.

**OCC §1702.323. SECURITY DEPARTMENT OF PRIVATE BUSINESS.** (a) Except as provided by Subsections (b) and (d), this chapter does not apply to an individual employed in an employee-employer relationship exclusively and regularly by one employer in connection with the affairs of the employer.

(b) An individual described by Subsection (a) who carries a firearm in the course of employment must obtain a private security officer commission under this chapter.

(c) The security department of a private business may not hire or employ an individual to perform a duty described by Section 1702.222 if the individual has been convicted of a crime that would otherwise preclude the individual from being registered under this chapter. The private business shall maintain the individual's criminal

history record on file at the business and shall make the record available for inspection by the Department of Public Safety.

(c-1) Although the security department of a private business that hires or employs an individual as a private security officer to possess a firearm in the course and scope of the individual's duties is required to apply for a security officer commission for the individual under this chapter, the security department of a private business is not required to apply to the board for any license under this chapter.

(d) This chapter applies to an individual described by Subsection (a) who in the course of employment:

- (1) comes into contact with the public;
- (2) wears:

(A) a uniform commonly associated with security personnel or law enforcement;

(B) any type of badge commonly associated with security personnel or law enforcement; or

(C) a patch or apparel containing the word "security" or a substantially similar word that is intended to or is likely to create the impression that the individual is performing security services; and

(3) performs a duty described by Section 1702.108 or 1702.222.

**OCC §1702.324. CERTAIN OCCUPATIONS.** (a) For the purposes of this section, "landman" means an individual who, in the course and scope of the individual's business:

(1) acquires or manages petroleum or mineral interests; or

(2) performs title or contract functions related to the exploration, exploitation, or disposition of petroleum or mineral interests.

(b) This chapter does not apply to:

(1) a manufacturer or a manufacturer's authorized distributor while selling equipment intended for resale;

(2) a person engaged exclusively in the business of obtaining and providing information to:

(A) determine creditworthiness;

(B) collect debts; or

(C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;

(3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(4) a person who is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes;

(5) a person who:

(A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;

(B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter; and

(C) does not perform any other act that requires a license under this chapter;

(6) a licensed engineer practicing engineering or directly supervising engineering practice under Chapter 1001, including forensic analysis, burglar alarm system engineering, and necessary data collection;

(7) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle

association by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture;

(8) a landman performing activities in the course and scope of the landman's business;

(9) an attorney while engaged in the practice of law;

(10) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition;

(11) an admitted insurer, insurance adjuster, agent, or insurance broker licensed by the state, performing duties in connection with insurance transacted by that person;

(12) a person who on the person's own property or on property owned or managed by the person's employer:

(A) installs, changes, or repairs a mechanical security device;

(B) repairs an electronic security device; or

(C) cuts or makes a key for a security device;

(13) security personnel, including security contract personnel, working at a commercial nuclear power plant licensed by the United States Nuclear Regulatory Commission;

(14) a person or firm licensed as an accountant or accounting firm under Chapter 901, an owner of an accounting firm, or an employee of an accountant or accounting firm while performing services regulated under Chapter 901;

(15) a retailer, wholesaler, or other person who sells mechanical security devices, including locks and deadbolts, but who does not:

(A) service mechanical security devices for the public outside of the person's premises; or

(B) claim to act as a locksmith;

(16) an employee while performing investigative services that would otherwise be subject to this chapter for an entity regulated by the:

(A) Texas Department of Insurance;

(B) Office of Thrift Supervision;

(C) Securities and Exchange Commission;

(D) Federal Deposit Insurance Corporation; or

(E) Financial Industry Regulatory Authority; or

(17) a social worker who holds a license issued under Chapter 505 who is engaged in the practice of social work.

(c) The exemptions provided by Subsection (b) apply only to a person described in that subsection while the person is performing services directly related to and dependent on the provision of the exempted service that does not otherwise require licensing under this chapter. The exemptions do not apply to activities or services that are independent of the service or profession that is the basis for the exemption.

**OCC §1702.325. COMMON CARRIERS.** This chapter does not apply to:

(1) a common carrier by rail engaged in interstate commerce, regulated by state and federal authorities, and transporting commodities essential to the national defense and to the general welfare and safety of the community; or

(2) an officer, employee, or agent of a common carrier, as defined by Section 153 of the federal Communications Act of 1934 (47 U.S.C. Section 153), and its subsequent amendments, while protecting the carrier or a user of the carrier's long-distance services from a fraudulent, unlawful, or abusive use of those long-distance services.

**OCC §1702.326. MEDICAL ALERT SERVICES.** (a)

This chapter does not apply to an entity that:

(1) provides medical alert services for persons who are sick or disabled;

(2) does not provide any other service that requires a license under this chapter; and

(3) is:

(A) a hospital or a wholly owned subsidiary or an affiliate of a hospital licensed under Chapter 241, Health and Safety Code; or

(B) a charitable or a nonprofit entity that provides the services in the manner required by Subsection (b) and that is exempt from the payment of federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 and its subsequent amendments by being listed as an exempt entity under Section 501(c)(3) of that code.

(b) A charitable or nonprofit entity that provides medical alert services must provide those services through a licensed person, licensed nurse, licensed physician assistant or by a hospital, subsidiary, or affiliate described by Subsection (a)(3)(A).

**OCC §1702.327. NONPROFIT AND CIVIC ORGANIZATIONS.** This chapter does not apply to:

(1) a nonprofit business or civic organization that:

(A) employs a peace officer who meets the qualifications of Section 1702.322(1) as a patrolman, guard, or watchman;

(B) provides the services of the peace officer only to:

(i) the organization's members; or

(ii) if the organization does not have members, the members of the communities served by the organization as described in the organization's articles of incorporation or other organizational documents;

(C) devotes the net receipts from all charges for the services exclusively to the cost of providing the services or to the costs of other services for the enhancement of the security or safety of:

(i) the organization's members; or

(ii) if the organization does not have members, the members of the communities served by the organization as described in the organization's articles of incorporation or other organizational documents; and

(D) does not perform any other service that requires a license under this chapter; or

(2) a charitable, nonprofit organization that maintains a system of records to aid in the location of missing children and that:

(A) is exempt from the payment of federal income taxes under Section 501(a) of the Internal Revenue Code of 1986 and its subsequent amendments by being listed as an exempt entity under Section 501(c)(3) of that code;

(B) exclusively provides services related to locating missing children; and

(C) does not perform any other service that requires a license under this chapter.

**OCC §1702.328. SECURITY SYSTEMS SALES AND INSTALLATION.** This chapter does not apply to:

(1) a person who owns and installs a burglar detection or alarm device on the person's own property or, if the person does not charge for the device or the installation, installs the device for the protection of the person's personal property located on another person's property and



does not, as a normal business practice, install the devices on the property of another;

(2) a person in the business of building construction that installs electrical wiring and devices that may include in part the installation of a burglar alarm or detection device if:

(A) the person is a party to a contract that provides that:

(i) the installation will be performed under the direct supervision of, and inspected and certified by, a person licensed to install and certify the alarm or detection device; and

(ii) the license holder assumes full responsibility for the installation of the alarm or detection device; and

(B) the person does not service or maintain alarm systems, electronic access control devices, locks, or detection devices;

(3) a person who sells or installs automobile burglar alarm devices and who does not perform any other act that requires a license under this chapter; or

(4) a person who sells exclusively by e-commerce, over the counter transactions, or mail order, alarm systems, electronic access control devices, locks, or detection devices.

**OCC §1702.329. FIRE ALARM AND DETECTION SALES AND INSTALLATION.** This chapter does not apply to:

(1) a person whose activities are regulated under Article 5.43-2, Insurance Code, except to the extent those activities are specifically regulated under this chapter; or

(2) a person who holds a license or other credential issued by a municipality to practice as an electrician and who installs fire or smoke detectors only in single-family or multifamily residences.

**OCC §1702.330. SECURITY PERSONNEL OF PRIVATE INSTITUTION OF HIGHER EDUCATION.** This chapter does not apply to:

(1) a person who is employed full-time by and is commissioned as a campus security personnel employee by a private institution of higher education under Section 51.212, Education Code; or

(2) a peace officer commissioned by an incorporated municipality who is hired under Section 51.212, Education Code, on a regular basis by a private institution of higher education while that peace officer is operating within the scope of the peace officer's employment with the institution of higher education.

**OCC §1702.331. PERSONAL EMERGENCY RESPONSE SYSTEMS.** (a) In this section, "personal emergency response system" means an alarm system that is:

(1) installed in the residence of a person;

(2) monitored by an alarm systems company;

(3) designed only to permit the person to signal the occurrence of a medical or personal emergency on the part of the person so that the company may dispatch appropriate aid; and

(4) not part of a combination of alarm systems that includes a burglar alarm or fire alarm.

(b) This chapter does not apply to:

(1) an alarm systems company that sells, installs, services, monitors, or responds to only personal emergency response systems;

(2) an alarm systems installer who installs, maintains, or repairs only personal emergency response systems;

(3) a manager or branch office manager of an alarm systems company described by Subdivision (1);

(4) a security salesperson who is employed by an alarm systems company described by Subdivision (1) to sell services offered by the company; and

(5) an owner, officer, partner, or shareholder of an alarm systems company described by Subdivision (1).

**OCC §1702.332. TELEMATICS SERVICE PROVIDERS.** (a) In this section, "telematics service" means:

(1) a service that:

(A) is provided to owners, operators, and occupants of consumer vehicles or commercial fleet vehicles through the remote access of in-vehicle data that may rely on global positioning system satellite data to fix the exact location of the vehicle, including:

(i) location-specific emergency and roadside vehicle breakdown assistance;

(ii) automatic collision notification;

(iii) real-time traffic and navigation information;

(iv) remote vehicle diagnostics; and

(v) stolen vehicle recovery;

(B) is enabled through the two-way communication of voice or data, often with an interactive voice response technology interface, between a service subscriber's vehicle and a telematics company's response center; and

(C) is provided to:

(i) enhance vehicle service, safety, and convenience while driving for vehicle owners;

(ii) enable automakers and automobile dealerships to achieve greater service and customer management efficiencies and to increase customer retention; and

(iii) enable fleet operators to remotely manage their vehicles and other mobile assets; and

(2) a related service provided to consumers, automakers, automobile dealerships, and commercial fleet operators by a telematics company as part of the emerging technology industry that delivers telematics services on a national basis to service subscribers.

(b) Except as otherwise provided by this section, this chapter does not apply to a person who provides a telematics service in this state.

(c) To qualify for the exemption provided by Subsection (b), a telematics service provider shall:

(1) establish business practices and procedures that are at least as stringent as the guidelines established by the Association of Public Safety Communications Officials International regarding the communication of information from telematics service providers to public safety agencies; and

(2) pay an annual fee of \$2,500 to the department.

(d) The department may adopt rules necessary to carry out the purposes of this section, including rules to determine whether a telematics service provider is complying with Subsection (c).

## **SUBCHAPTER O. PROHIBITED PRACTICES AND GROUNDS FOR DENIAL AND DISCIPLINARY ACTION**

**OCC §1702.361. DENIAL AND DISCIPLINARY ACTIONS; GROUNDS.** (a) The department, for conduct described by Subsection (b), may:



(1) deny an application or revoke, suspend, or refuse to renew a license, registration, endorsement, or security officer commission;

(2) reprimand a license holder, registrant, or commissioned security officer; or

(3) place on probation a person whose license, registration, endorsement, or security officer commission has been suspended.

(b) The department shall take disciplinary action described by Subsection (a) on proof:

(1) that the applicant, license holder, registrant, endorsement holder, or commissioned security officer has:

(A) violated this chapter or a rule adopted under this chapter;

(B) become ineligible for licensure, registration, or endorsement under Section 1702.113, or a commission under Section 1702.163, if applicable, other than an action for which the department has taken summary action under Section 1702.364;

(C) engaged in fraud, deceit, or misrepresentation;

(D) made a material misstatement in an application for or renewal of a license, registration, endorsement, or commission;

(E) failed to pay in full an administrative penalty assessed under Subchapter Q, for which the board has issued a final order; or

(F) performed any service for which an endorsement is required under this chapter and either:

(i) was not employed with a company licensed under this chapter at the time the service was performed; or

(ii) performed the service for a company licensed under this chapter that was not listed on the individual's registration without informing the board of the individual's employment with the company within a reasonable period; or

(2) that the license holder of a registrant or commissioned security officer has submitted to the department sufficient evidence that the registrant or commissioned security officer:

(A) engaged in fraud or deceit while employed by the license holder; or

(B) committed theft while performing work as a registrant or commissioned security officer.

(c) The department may place on probation a person whose license is suspended. If a person's suspension of a license is probated, the department may require the person:

(1) to report regularly to the department on matters that are the basis of the suspension;

(2) to limit practice to the areas prescribed by the department; or

(3) to continue or review professional education until the person attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

**OCC §1702.3615. DIRECT APPEAL IN LIMITED CASES.** (a) An applicant may appeal directly to the board the denial of a license, registration, or security officer commission application if:

(1) the sole basis of the denial is the applicant's status as a registered sex offender;

(2) the applicant's status as a sex offender is not based on a criminal conviction that would make the applicant ineligible under Section 1702.113 or 1702.163; and

(3) the applicant waives the applicant's right to a hearing before the State Office of Administrative Hearings.

(b) A proceeding under Subsection

(a) is governed by Chapter 2001, Government Code. A hearing must be held at a regular meeting of the board.

(c) In a proceeding held as provided by Subsection

(a), the board may approve the application if the board determines the circumstances surrounding the applicant's registration as a sex offender warrant approval based on factors previously established by rule.

**OCC §1702.362. FAILURE TO FILE REQUIRED NOTICE.** The board may suspend or revoke a license if the license holder fails to notify the board as required by Section 1702.121 that a manager has ceased to be the manager of the license holder.

**OCC §1702.363. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.** Except as provided by Sections 1702.3615(b) and 1702.364, a person regulated under this chapter against whom the board has taken action is entitled to a hearing before the State Office of Administrative Hearings. A proceeding under this section is a contested case that is governed by Chapter 2001, Government Code.

**OCC §1702.364. SUMMARY ACTIONS.** (a) On receiving written notice from a law enforcement agency that a person has been charged with or convicted of an offense that would make the person ineligible for a license, certificate of registration, endorsement, or security officer commission under Section 1702.113 or 1702.163, the department shall:

(1) summarily deny the person's application for a license, registration, endorsement, or security officer commission;

(2) in the event of pending charges, summarily suspend the person's license, certificate of registration, endorsement, or security officer commission; or

(3) in the event of a conviction, summarily revoke the person's license, certificate of registration, endorsement, or security officer commission.

(b) To initiate a proceeding to take action under Subsection

(a), the department must serve notice to the person. The notice must:

(1) inform the person of the right to a preliminary hearing before the department;

(2) state the basis for the summary action; and

(3) be personally served on the person or the person's authorized representative, or sent to the person by certified or registered mail, return receipt requested, to the person's mailing address as it appears in the department's records.

(c) The action is effective at the time notice is served. The person shall immediately surrender to the department any certificate of registration, security officer commission, pocket card, or other form of identification issued by the department.

(d) At a preliminary hearing, the person must show cause why:

(1) the application should not have been denied;

(2) the registration, license, endorsement, or security officer commission should not have been suspended; or

(3) the registration, license, endorsement, or commission should not have been revoked.

(e) Chapter 2001, Government Code, does not apply to the department's initial action under this section or to a preliminary hearing before the department under this section.

(f) The dismissal of a complaint, information, or indictment or an acquittal releases the person from automatic grounds for a summary denial of an application or summary suspension of a registration, endorsement, or security officer commission under this section. A conviction for the offense giving rise to a summary suspension is automatic grounds for immediate, summary revocation.

(g) The results of the preliminary hearing may be appealed by requesting, in writing, a hearing before an administrative law judge of the State Office of Administrative Hearings. On receipt of the request, the department shall set a hearing and give written notice of the hearing to the person.

(h) The administrative law judge shall make findings of fact and conclusions of law regarding the person's eligibility for a license, registration, or endorsement under this section and promptly issue to the board a proposal for a decision.

(i) At its earliest possible quarterly meeting, the board shall consider the proposal for decision and promptly issue a final order.

(j) \**[repealed by Acts effective September 1, 2009, 81st Leg., R.S., H.B. 2730, PC §4.102.]*

**OCC §1702.365. ABDUCTION OF CHILD.** The board shall revoke a person's license, registration, endorsement, or security officer commission or deny a person's application for, or renewal of, a license, registration, endorsement, or security officer commission on proof that the person or an agent of the person has, after the date of application for a license, registration, endorsement, or security officer commission, abducted or attempted to abduct by force or the threat of force or by misrepresentation, stealth, or unlawful entry a child who at the time of the abduction or attempt is under the care and control of a person who:

(1) has custody or physical possession of the child under a court order; or

(2) is exercising the care and control with the consent of a person who has custody.

**OCC §1702.367. COMPLAINT INVESTIGATION; SUBPOENA; WITNESS.** (a) For an investigation conducted under this chapter, if necessary to enforce this chapter or the board's rules, the department may issue an administrative subpoena to any person in this state compelling:

- (1) the production of information or documents; or
- (2) the attendance and testimony of a witness.

(b) A witness is not privileged to refuse to testify to a fact or to produce a record or document with respect to which the witness is properly examined by the hearings officer.

(c) A person required to testify or to produce a record or document on any matter properly under inquiry by the board who refuses to testify or to produce the record or document on the ground that the testimony or the production of the record or document would incriminate or tend to incriminate the person is nonetheless required to testify or to produce the record or document. A person who is required to testify or to produce a record or document under this subsection is not subject to indictment or prosecution

for a transaction, matter, or thing concerning which the person truthfully testifies or produces evidence.

(d) If a witness refuses to obey a subpoena or to give evidence relevant to proper inquiry by the board, the board may petition a district court of the county in which the hearing is held to compel the witness to obey the subpoena or to give the evidence. The court shall immediately issue process to the witness and shall hold a hearing on the petition as soon as possible.

(e) An investigator employed by the board may take statements under oath in an investigation of a matter covered by this chapter.

(f) A person licensed or otherwise regulated under this chapter who fails without good cause to comply with a subpoena issued under this section may be subject to suspension of a license under Section 1702.361.

(g) If a subpoena issued under this section relates to an ongoing criminal investigation by the department and the department determines that disclosure could significantly impede the investigation, the subpoena may provide that the person to whom the subpoena is directed may not:

(1) disclose that the subpoena has been issued;

(2) identify or describe any records requested by the subpoena; or

(3) disclose whether records have been furnished in response to the subpoena.

**OCC §1702.368. NOTIFICATION OF CONVICTION FOR CERTAIN OFFENSES.** The department shall notify the board and the police department of the municipality and the sheriff's department of the county in which a person licensed, registered, or commissioned under this chapter resides of the conviction of the person for a Class B misdemeanor or equivalent offense or a greater offense.

**OCC §1702.369. NO REINSTATEMENT AFTER REVOCATION.** A revoked license may not be reinstated.

**OCC §1702.370. EFFECT OF SUSPENSION; MONITORING OF EXISTING ALARM CONTRACTS.** Subject to expiration of the license under Section 1702.306, a license holder may continue to monitor under an existing alarm contract or contract to monitor under an existing alarm contract for 30 days after the date of suspension of the person's license.

**OCC §1702.3705. PROHIBITION AGAINST CERTAIN POLITICAL SUBDIVISIONS ACTING AS ALARM SYSTEMS COMPANY.** (a) Except as provided by Subsection (b), a political subdivision may not offer residential alarm system sales, service, installation, or monitoring unless it has been providing monitoring services to residences within the boundaries of the political subdivision as of September 1, 1999. Any fee charged by the political subdivision may not exceed the cost of the monitoring.

(b) A political subdivision may:

(1) offer service, installation, or monitoring for property owned by the political subdivision or another political subdivision;

(2) allow for the response of an alarm or detection device by a law enforcement agency or by a law enforcement officer acting in an official capacity;

(3) offer monitoring in connection with a criminal investigation; or

(4) offer monitoring to a financial institution, as defined by Section 59.301, Finance Code, that requests, in writing, that the political subdivision provide monitoring service to the financial institution.

(c) The limitations of Subsection (a) do not apply to a political subdivision in a county with a population of less than 80,000 or in a political subdivision where monitoring is not otherwise provided or available.

**OCC §1702.371. CONVICTION OF CERTAIN CRIMES.** For purposes of this chapter, a person is considered to be convicted of an offense if a court enters a judgment against the person for committing an offense under the laws of this state, another state, or the United States, including a conviction:

- (1) in which a person is placed on and subsequently discharged from community supervision;
- (2) that has been set aside or dismissed following the completion of probation; or
- (3) for which a person is pardoned, unless the pardon was granted for reasons relating to a wrongful conviction.

**OCC §1702.372. RECUSAL OF BOARD MEMBER.** (a) A board member who participated in the investigation of a complaint or in informal settlement negotiations regarding the complaint:

- (1) may not vote on the matter at a board meeting related to the complaint; and
- (2) shall state at the meeting the reason for which the member is prohibited from voting on the matter.

(b) A statement under Subsection (a)(2) shall be entered into the minutes of the meeting.

## **SUBCHAPTER P. PENALTIES AND ENFORCEMENT PROVISIONS**

**OCC §1702.381. CIVIL PENALTY.** (a) A person who is not licensed under this chapter, who does not have a license application pending, and who violates this chapter may be assessed a civil penalty to be paid to the state not to exceed \$10,000 for each violation.

(b) A person who contracts with or employs a person who is required to hold a license, registration, endorsement, or security officer commission under this chapter knowing that the person does not hold the required license, registration, endorsement, or commission or who otherwise, at the time of contract or employment, is in violation of this chapter may be assessed a civil penalty to be paid to the state in an amount not to exceed \$10,000 for each violation.

(c) A civil penalty under this section may be assessed against a person on proof that the person has received at least 30 days' notice of the requirements of this section.

**OCC §1702.382. INJUNCTION.** (a) An attorney for the department, the attorney general's office, or any criminal prosecutor in this state may institute an action against a person to enjoin a violation by the person of this chapter or an administrative rule.

(b) An injunction action instituted under this section does not require an allegation or proof that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation to sustain an action under this section. A bond is not required for an injunction action instituted under this section.

**OCC §1702.383. ACTION FOR CIVIL PENALTY OR INJUNCTION.** If a person has violated a provision of this chapter for which a penalty is imposed under Section 1702.381, an attorney for the department, the attorney general's office, or any criminal prosecutor in this state may institute a civil suit in a Travis County district court or in a district court in the county in which the violation occurred for injunctive relief under Section 1702.382 or for assessment and recovery of the civil penalty.

**OCC §1702.3835. DECEPTIVE TRADE PRACTICE.** (a) A person who performs or offers to perform an activity regulated under this chapter, but who is not licensed or otherwise authorized under this chapter to perform the activity, commits a false, misleading, or deceptive act or practice within the meaning of Section 17.46, Business & Commerce Code.

(b) A public or private right or remedy under Chapter 17, Business & Commerce Code, may be used to enforce this chapter.

**OCC §1702.384. FALSIFICATION OF CERTAIN DOCUMENTS; OFFENSE.** (a) A person commits an offense if the person knowingly falsifies fingerprints or photographs submitted under Section 1702.110.

(b) An offense under this section is a felony of the third degree.

**OCC §1702.385. NEGLECT BY GUARD DOG COMPANY; OFFENSE.** (a) A license holder commits an offense if the license holder:

- (1) operates a guard dog company; and
- (2) fails to provide necessary food, care, or shelter for an animal used by the guard dog company.

(b) An offense under this section is a Class A misdemeanor.

**OCC §1702.386. UNAUTHORIZED EMPLOYMENT; OFFENSE.** (a) A person commits an offense if the person contracts with or employs a person who is required to hold a license, registration, endorsement, or commission under this chapter knowing that the person does not hold the required license, registration, endorsement, or commission or who otherwise, at the time of contract or employment, is in violation of this chapter.

(b) An offense under Subsection (a) is a Class A misdemeanor.

**OCC §1702.3863. UNAUTHORIZED CONTRACT WITH BAIL BOND SURETY; OFFENSE.** (a) A person commits an offense if the person contracts with or is employed by a bail bond surety as defined by Chapter 1704 to secure the appearance of a person who has violated Section 38.10, Penal Code, unless the person is:

- (1) a peace officer;
- (2) an individual endorsed or licensed as a private investigator or the manager of a licensed investigations company; or
- (3) a commissioned security officer employed by a licensed guard company.

(b) An offense under Subsection (a) is a state jail felony.

**OCC §1702.3867. EXECUTION OF CAPIAS OR ARREST WARRANT; OFFENSE.** (a) A private investigator executing a capias or an arrest warrant on behalf of a bail bond surety may not:

(1) enter a residence without the consent of the occupants;

(2) execute the capias or warrant without written authorization from the surety;

(3) wear, carry, or display any uniform, badge, shield, or other insignia or emblem that implies that the private investigator is an employee, officer, or agent of the federal government, the state, or a political subdivision of the state; or

(4) notwithstanding Section 9.51, Penal Code, use deadly force.

(b) Notwithstanding Subsection (a)(3), a private investigator may display identification that indicates that the person is acting on behalf of a bail bond surety.

(c) A private investigator executing a capias or an arrest warrant on behalf of a bail bond surety shall immediately take the person arrested to:

(1) if the arrest is made in the county in which the capias or warrant was issued:

(A) the county jail for that county if:

(i) the offense is a Class A or Class B misdemeanor or a felony; or

(ii) the offense is a Class C misdemeanor and the capias or warrant was issued by a magistrate of that county; or

(B) the municipal jail for the appropriate municipality if the offense is a Class C misdemeanor and the capias or warrant was issued by a magistrate of the municipality; or

(2) if the arrest is made in a county other than the county in which the capias or warrant was issued, the county jail for the county in which the arrest is made.

(d) A person commits an offense if the person violates this section. An offense under this section is a state jail felony.

**OCC §1702.387. FAILURE TO SURRENDER CERTAIN DOCUMENTS; OFFENSE.** (a) A person commits an offense if the person fails to surrender or immediately return to the board the person's registration, commission, pocket card, or other identification issued to the person by the board on notification of a summary suspension or summary denial under Section 1702.364.

(b) An offense under this section is a Class A misdemeanor.

**OCC §1702.3875. IMPERSONATING SECURITY OFFICER; OFFENSE.** (a) A person commits an offense if the person:

(1) impersonates a commissioned or noncommissioned security officer with the intent to induce another to submit to the person's pretended authority or to rely on the person's pretended acts of a security officer; or

(2) knowingly purports to exercise any function that requires registration as a noncommissioned security officer or a security officer commission.

(b) An offense under this section is a Class A misdemeanor.

**OCC §1702.388. VIOLATION OF CHAPTER; OFFENSE.** (a) A person commits an offense if the person violates a provision of this chapter for which a specific criminal penalty is not prescribed.

(b) An offense under this section is a Class A misdemeanor, except that the offense is a felony of the third degree if the person has previously been convicted under

this chapter of failing to hold a license, registration, endorsement, certificate, or commission that the person is required to hold under this chapter.

**OCC §1702.389. VENUE.** An offense under this chapter may be prosecuted in Travis County or in the county in which the offense occurred.

## SUBCHAPTER Q. ADMINISTRATIVE PENALTY

**OCC §1702.401. IMPOSITION OF PENALTY.** In addition to any other disciplinary action taken by the department, and subject to the board's final order in a hearing under this subchapter, the department may impose an administrative penalty on a person licensed, commissioned, or registered under this chapter who violates this chapter or a rule or order adopted under this chapter.

**OCC §1702.402. AMOUNT OF PENALTY.** (a) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The amount of each separate violation may not exceed \$5,000.

(b) The amount of a violation shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm to property or the public caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(c) The board by rule shall develop a standardized penalty schedule based on the criteria listed in Subsection (b).

**OCC §1702.403. NOTICE OF VIOLATION AND PENALTY.** (a) If the department determines that a violation has occurred, the department shall give written notice to the person.

(b) The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

**OCC §1702.404. PENALTY TO BE PAID OR HEARING REQUESTED.** (a) Not later than the 20th day after the date the person receives the notice, the person in writing may:

(1) accept the determination and recommended penalty; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty, the person shall pay the penalty in a timely manner.

(c) The department may initiate suspension proceedings under Section 1702.361 against a person who, before the 21st day after the day the person receives the notice, either:

(1) accepts the penalty but fails to pay; or

(2) fails to respond to the notice.



**OCC §1702.405. HEARING.** (a) If the person requests a hearing, the department shall set a hearing and give written notice of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.

(b) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the board a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

**OCC §1702.406. DECISION BY BOARD.** (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the board by order may:

(1) find that a violation occurred and impose a penalty; or

(2) find that a violation did not occur.

(b) The notice of the board's order given to the person must include a statement of the right of the person to judicial review of the order. Judicial review is under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code.

(c) If the person does not file a petition in the appropriate civil court for judicial review of the board's order not later than the 30th day after the date of the order, the board's order is final for purposes of Section 1702.361.

**OCC §1702.407. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.** *\*[repealed by Acts effective September 1, 2007, 80th Leg., R.S., H.B. 2833, §30.]*

**OCC §1702.408. STAY OF ENFORCEMENT OF PENALTY.** *\*[repealed by Acts effective September 1, 2007, 80th Leg., R.S., H.B. 2833, §30.]*

**OCC §1702.409. COLLECTION OF PENALTY.** *(\*)[repealed by Acts effective September 1, 2007, 80th Leg., R.S., H.B. 2833, §30.]*

**OCC §1702.410. DECISION BY COURT.** *\*[repealed by Acts effective September 1, 2007, 80th Leg., R.S., H.B. 2833, §30.]*

**OCC §1702.411. REMITTANCE OF PENALTY AND INTEREST.** *\*[repealed by Acts effective September 1, 2007, 80th Leg., R.S., H.B. 2833, §30.]*

**OCC §1702.412. RELEASE OF BOND.** *\*[repealed by Acts effective September 1, 2007, 80th Leg., R.S., H.B. 2833, §30.]*

**OCC §1702.413. ADMINISTRATIVE PROCEDURE.** A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.



## CHAPTER 2

## SELECT TEXAS STATUTES

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## PENAL CODE

**PC §46.01. DEFINITIONS.** In this Chapter:

(1) "Club" means an instrument that is specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, and includes but is not limited to the following:

- (A) blackjack;
- (B) nightstick;
- (C) mace;
- (D) tomahawk.

(2) "Explosive weapon" means any explosive or incendiary bomb, grenade, rocket, or mine, that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon.

(3) "Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. Firearm does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this chapter and that is:

(A) an antique or curio firearm manufactured before 1899; or

(B) a replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition.

(4) "Firearm silencer" means any device designed, made, or adapted to muffle the report of a firearm.

(5) "Handgun" means any firearm that is designed, made, or adapted to be fired with one hand.

(6) "Illegal knife" means a:

- (A) knife with a blade over five and one-half inches;
- (B) hand instrument designed to cut or stab another by being thrown;
- (C) dagger, including but not limited to a dirk, stiletto, and poniard;
- (D) bowie knife;
- (E) sword; or
- (F) spear.

(7) "Knife" means any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument.

(8) "Knuckles" means any instrument that consists of finger rings or guards made of a hard substance and that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles.

(9) "Machine gun" means any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.

(10) "Short-barrel firearm" means a rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a shotgun or rifle if, as altered, it has an overall length of less than 26 inches.

(11) "Switchblade knife" means any knife that has a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressure applied to a button or other device located on the handle or opens or releases a blade from the handle or sheath by the force of gravity or by the application of centrifugal force. The term does not include a knife that has a spring, detent, or other mechanism designed to create a bias toward closure and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife.

(12) "Armor-piercing ammunition" means handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used principally in pistols and revolvers.

(13) "Hoax bomb" means a device that:

(A) reasonably appears to be an explosive or incendiary device; or

(B) by its design causes alarm or reaction of any type by an official of a public safety agency or a volunteer agency organized to deal with emergencies.

(14) "Chemical dispensing device" means a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a substance capable of causing an adverse psychological or physiological effect on a human being.

(15) "Racetrack" has the meaning assigned that term by the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(16) "Zip gun" means a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance.

(17) "Tire deflation device" means a device, including a caltrop or spike strip, that when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires. The term does not include a traffic control device that:

(A) is designed to puncture one or more of a vehicle's tires when driven over in a specific direction; and

(B) has a clearly visible sign posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device.

**PC §46.02. UNLAWFUL CARRYING WEAPONS.** (a) A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun, illegal knife, or club if the person is not:

(1) on the person's own premises or premises under the person's control; or

(2) inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control.

(a-1) A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which:

(1) the handgun is in plain view; or

(2) the person is:

(A) engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic or boating;

(B) prohibited by law from possessing a firearm; or

(C) a member of a criminal street gang, as defined by Section 71.01.

(a-2) For purposes of this section, "premises" includes real property and a recreational vehicle that is being used as living quarters, regardless of whether that use is temporary or permanent. In this subsection, "recreational vehicle" means a motor vehicle primarily designed as temporary living quarters or a vehicle that contains temporary living quarters and is designed to be towed by a motor vehicle. The term includes a travel trailer, camping trailer, truck camper, motor home, and horse trailer with living quarters.

(a-3) For purposes of this section, "watercraft" means any boat, motorboat, vessel, or personal watercraft, other than a seaplane on water, used or capable of being used for transportation on water.

(b) Except as provided by Subsection (c), an offense under this section is a Class A misdemeanor.

(c) An offense under this section is a felony of the third degree if the offense is committed on any premises licensed or issued a permit by this state for the sale of alcoholic beverages.

**PC §46.03. PLACES WEAPONS PROHIBITED.** (a) A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon listed in Section 46.05(a):

(1) on the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, whether the school or educational institution is public or private, unless pursuant to written regulations or written authorization of the institution;

(2) on the premises of a polling place on the day of an election or while early voting is in progress;

(3) on the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court;

(4) on the premises of a racetrack; or

(5) in or into a secured area of an airport.

(6) within 1,000 feet of premises the location of which is designated by the Texas Department of Criminal Justice as a place of execution under Article 43.19, Code of Criminal Procedure, on a day that a sentence of death is set to be imposed on the designated premises and the person received notice that:

(A) going within 1,000 feet of the premises with a weapon listed under this subsection was prohibited; or

(B) possessing a weapon listed under this subsection within 1,000 feet of the premises was prohibited.

(b) It is a defense to prosecution under Subsections (a)(1)-(4) that the actor possessed a firearm while in the actual discharge of his official duties as a member of the armed forces or national guard or a guard employed by a penal institution, or an officer of the court.

(c) In this section:

(1) "Premises" has the meaning assigned by Section 46.035.

(2) "Secured area" means an area of an airport terminal building to which access is controlled by the inspection of persons and property under federal law.

(d) It is a defense to prosecution under Subsection (a)(5) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in

the actual discharge of duties as:

(1) a member of the armed forces or national guard;

(2) a guard employed by a penal institution; or

(3) a security officer commissioned by the Texas Private Security Board if:

(A) the actor is wearing a distinctive uniform; and

(B) the firearm or club is in plain view; or

(4) a security officer who holds a personal protection authorization under Chapter 1702, Occupations Code, provided that the officer is either:

(A) wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's firearm in plain view; or

(B) not wearing the uniform of a security officer and carrying the officer's firearm in a concealed manner.

(e) It is a defense to prosecution under Subsection (a)(5) that the actor checked all firearms as baggage in accordance with federal or state law or regulations before entering a secured area.

(f) It is not a defense to prosecution under this section that the actor possessed a handgun and was licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code.

(g) An offense under this section is a third degree felony.

(h) It is a defense to prosecution under Subsection (a)(4) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of duties as a security officer commissioned by the Texas Board of Private Investigators and Private Security Agencies, if:

(1) the actor is wearing a distinctive uniform; and

(2) the firearm or club is in plain view.

(i) It is an exception to the application of Subsection (a)(6) that the actor possessed a firearm or club:

(1) while in a vehicle being driven on a public road;

or

(2) at the actor's residence or place of employment.

**PC §46.035. UNLAWFUL CARRYING OF HANDGUN BY LICENSE HOLDER.** (a) A license holder commits an offense if the license holder carries a handgun on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally fails to conceal the handgun.

(b) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed, on or about the license holder's person:

(1) on the premises of a business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption, as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code;

(2) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event;

(3) on the premises of a correctional facility;

(4) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing home licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing home administration, as appropriate;

(5) in an amusement park; or

(6) on the premises of a church, synagogue, or other established place of religious worship.

(c) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed, at any meeting of a governmental entity.

(d) A license holder commits an offense if, while intoxicated, the license holder carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed.

(e) A license holder who is licensed as a security officer under Chapter 1702, Occupations Code, and employed as a security officer commits an offense if, while in the course and scope of the security officer's employment, the security officer violates a provision of Subchapter H, Chapter 411, Government Code.

(f) In this section:

(1) "Amusement park" means a permanent indoor or outdoor facility or park where amusement rides are available for use by the public that is located in a county with a population of more than one million, encompasses at least 75 acres in surface area, is enclosed with access only through controlled entries, is open for operation more than 120 days in each calendar year, and has security guards on the premises at all times. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

(2) "License holder" means a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code.

(3) "Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

(g) An offense under Subsection (a), (b), (c), (d), or (e) is a Class A misdemeanor, unless the offense is committed under Subsection (b)(1) or (b)(3), in which event the offense is a felony of the third degree.

(h) It is a defense to prosecution under Subsection (a) that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of deadly force under Chapter 9.

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*[double amendment to same provision]*

(h-1) *\*[as added by Acts 2007, 80th Leg., R.S., HB 1889.]* It is a defense to prosecution under Subsections (b) and (c) that the actor, at the time of the commission of the offense, was:

(1) an active judicial officer, as defined by Section 411.201, Government Code; or

(2) a bailiff designated by the active judicial officer and engaged in escorting the officer.

(h-1) *\*[as added by Acts 2007, 80th Leg., R.S., HB 2300.]* It is a defense to prosecution under Subsections (b)(1), (2), and (4)-(6), and (c) that at the time of the commission of the offense, the actor was:

(1) a judge or justice of a federal court;

(2) an active judicial officer, as defined by Section 411.201, Government Code; or

(3) a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney.

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(i) Subsections (b)(4), (b)(5), (b)(6), and (c) do not apply if the actor was not given effective notice under Section 30.06.

(j) Subsections (a) and (b)(1) do not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.

(k) It is a defense to prosecution under Subsection (b)(1) that the actor was not given effective notice under Section 411.204, Government Code.

**PC §46.05. PROHIBITED WEAPONS.** (a) A person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

- (1) an explosive weapon;
- (2) a machine gun;
- (3) a short-barrel firearm;
- (4) a firearm silencer;
- (5) a switchblade knife;
- (6) knuckles;
- (7) armor-piercing ammunition;
- (8) a chemical dispensing device;
- (9) a zip gun; or
- (10) a tire deflation device.

(b) It is a defense to prosecution under this section that the actor's conduct was incidental to the performance of official duty by the armed forces or national guard, a governmental law enforcement agency, or a correctional facility.

(c) It is a defense to prosecution under this section that the actor's possession was pursuant to registration pursuant to the National Firearms Act, as amended.

(d) It is an affirmative defense to prosecution under this section that the actor's conduct:

(1) was incidental to dealing with a switchblade knife, springblade knife, short-barrel firearm, or tire deflation device solely as an antique or curio;

(2) was incidental to dealing with armor-piercing ammunition solely for the purpose of making the ammunition available to an organization, agency, or institution listed in Subsection (b) or

(3) was incidental to dealing with a tire deflation device solely for the purpose of making the device available to an organization, agency, or institution listed in Subsection (b).

(e) An offense under Subsection (a)(1), (2), (3), (4), (7), (8), or (9) is a felony of the third degree. An offense under Subsection (a)(10) is a state jail felony. An offense under Subsection (a)(5) or (6) is a Class A misdemeanor.

(f) It is a defense to prosecution under this section for the possession of a chemical dispensing device that the actor is a security officer and has received training on the use of the chemical dispensing device by a training program that is:

(1) provided by the Commission on Law Enforcement Officer Standards and Education; or

(2) approved for the purposes described by this subsection by the Texas Private Security Board of the Department of Public Safety.

(g) In Subsection (f), "security officer" means a commissioned security officer as defined by Section 1702.002, Occupations Code, or a noncommissioned security officer registered under Section 1702.221, Occupations Code.



**PC §46.15. NONAPPLICABILITY.** (a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code;

(4) an active judicial officer as defined by Section 411.201, Government Code, who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(5) an honorably retired peace officer or federal criminal investigator who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that:

(A) verifies that the officer honorably retired after not less than 15 years of service as a commissioned officer; and

(B) is issued by a state or local law enforcement agency;

(6) a district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(7) an assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(8) a bailiff designated by an active judicial officer as defined by Section 411.201, Government Code, who is:

(A) licensed to carry a concealed handgun under Chapter 411, Government Code; and

(B) engaged in escorting the judicial officer; or

(9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resources Code.

(b) Section 46.02 does not apply to a person who:

(1) is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 431.001, Government Code, or as a guard employed by a penal institution;

(2) is traveling;

(3) is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or is en route between the premises

and the actor's residence, motor vehicle, or watercraft if the weapon is a type commonly used in the activity;

(4) holds a security officer commission issued by the Texas Private Security Board, if the person

is engaged in the performance of the person's duties as an officer commissioned under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment and

is wearing the officer's uniform and carrying the officer's weapon in plain view;

(5) acts as a personal protection officer and carries the person's security officer commission and personal protection officer authorization, if the person:

(A) is engaged in the performance of the person's duties as a personal protection officer under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment; and

(B) is either:

(i) wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's weapon in plain view; or

(ii) not wearing the uniform of a security officer and carrying the officer's weapon in a concealed manner;

(6) is carrying a concealed handgun and a valid license issued under Subchapter H, Chapter 411, Government Code, to carry a concealed handgun of the same category as the handgun the person is carrying;

(7) holds an alcoholic beverage permit or license or is an employee of a holder of an alcoholic beverage permit or license if the person is supervising the operation of the permitted or licensed premises; or

(8) is a student in a law enforcement class engaging in an activity required as part of the class, if the weapon is a type commonly used in the activity and the person is:

(A) on the immediate premises where the activity is conducted; or

(B) en route between those premises and the person's residence and is carrying the weapon unloaded.

(c) The provision of Section 46.02 prohibiting the carrying of a club does not apply to a noncommissioned security guard at an institution of higher education who carries a nightstick or similar club, and who has undergone 15 hours of training in the proper use of the club, including at least seven hours of training in the use of the club for nonviolent restraint. For the purposes of this subsection, "nonviolent restraint" means the use of reasonable force, not intended and not likely to inflict bodily injury.

(d) The provisions of Section 46.02 prohibiting the carrying of a firearm or carrying of a club do not apply to a public security officer employed by the adjutant general under Section 431.029, Government Code, in performance of official duties or while traveling to or from a place of duty.

(e) The provisions of Section 46.02 prohibiting the carrying of an illegal knife do not apply to an individual carrying a bowie knife or a sword used in a historical demonstration or in a ceremony in which the knife or sword is significant to the performance of the ceremony.

(f) Section 46.03(a)(6) does not apply to a person who possesses a firearm or club while in the actual discharge of official duties as:

(1) a member of the armed forces or state military forces, as defined by Section 431.001, Government Code; or



(2) an employee of a penal institution.

(g) The provisions of Sections 46.02 and 46.03 prohibiting the possession or carrying of a club do not apply to an animal control officer who holds a certificate issued under Section 829.006, Health and Safety Code, and who possesses or carries an instrument used specifically for deterring the bite of an animal while the officer is in the performance of official duties under the Health and Safety Code or is traveling to or from a place of duty.

\*(h) \*[repealed by Acts 2007, 80th Leg., RS, HB 1815, §3.]

\*(i) \*[repealed by Acts 2007, 80th Leg., RS, HB 1815, §3.]

(j) The provisions of Section 46.02 prohibiting the carrying of a handgun do not apply to an individual who carries a handgun as a participant in a historical reenactment performed in accordance with the rules of the Texas Alcoholic Beverage Commission.

## GOVERNMENT CODE, CHAPTER 411

**GC §411.200. APPLICATION TO LICENSED SECURITY OFFICERS.** This subchapter does not exempt a license holder who is also employed as a security officer and licensed under Chapter 1702, Occupations Code, from the duty to comply with Chapter 1702, Occupations Code, or Section 46.02, Penal Code

